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UNIVERSITY OF CALIFORNIA RESOLUTION NO. 63546

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
JOSE AUTHORIZING THE MAYOR TO EXECUTE A
MEMORANDUM OF UNDERSTANDING WITH THE GIANTS

WHEREAS, the City of San Jose desires to bring Major League
Baseball to San Jose and the south bay; and

WHEREAS, the City has reached a Memorandum of Understanding with
the Giants which would bring the Giants to San Jose;

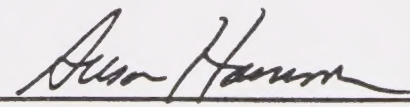
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN
JOSE that the Memorandum of Understanding with the Giants is approved
and the Mayor is authorized to sign the Memorandum of Understanding on
behalf of the City.

ADOPTED this 3rd day of March, 1991, by the
following vote:

AYES: ALVARADO, HEAD, IANNI, LEWIS,
PANDORI, SAUSEDI, SHIRAKAWA, STABILE; HAMMER

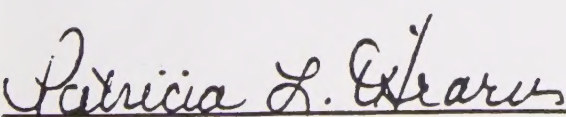
NOES: BEALL

ABSENT: JOHNSON




SUSAN HAMMER, Mayor

ATTEST:



PATRICIA L. O'HEARN, City Clerk

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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE GIANTS AND SAN JOSE
FOR THE BALLPARK PROJECT**

INSTRUCTIONS TO CONTRIBUTORS
MANUSCRIPT PREPARATION AND SUBMISSION
AND THE JOURNAL'S POLICY

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into as of March __, 1992, between the San Francisco Giants, a California general partnership (the "Giants") and the City of San Jose ("San Jose"). Pursuant to this MOU, the Giants and San Jose shall engage in exclusive good faith negotiations in an effort to agree upon a form of lease or sublease (the "Lease") and related documents under which San Jose shall lease to the Giants certain real property on which the Giants shall construct a baseball park, together with parking and related facilities (the "Ballpark Project"). Unless earlier terminated pursuant to Section 4.4, these negotiations shall continue until June 1, 1992, or such later date as the parties shall mutually agree in writing (the final date agreed upon is referred to as the "Expiration Date"). Subject to Section 13, and the succeeding paragraph, each party reserves its right to terminate the negotiations on the Expiration Date without liability to the other.

This MOU is not a lease and is not binding as a lease; it is merely an agreement to negotiate in good faith for the period stated; provided that, the indemnity in Section 15 is binding and enforceable as of the date of this MOU and shall survive termination of this MOU. Negotiations between the parties shall be based on the key points set forth below.

1. Acquisition of Premises. San Jose, at no cost to the Giants, shall acquire that certain real property comprising approximately 154 acres and more particularly shown on the map attached as Exhibit A (the "Premises"). This acquisition may be by outright purchase, exchange, lease or license from the present owner, or other means, so long as such acquisition is (a) consistent with this MOU, the Lease, the Development Agreement (as referred to in Section 3) and any related documents between the parties (collectively, the "Transaction Documents"), and (b) free from any encumbrance or other title condition, or provision of any kind, that would interfere with or in any way impair the Ballpark Project. In particular, San Jose shall enter into a lease with the State of California covering that portion of the Premises now owned by the State. The lease shall be on terms at least as favorable to San Jose as those set forth in the letter of intent attached as Exhibit B. An unconditional and mutually binding agreement to enter into such a lease shall be fully executed no later than

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of a people who have grown from a small group of settlers on a remote island to a great nation that spans a continent. The story begins with the first European settlers, who came to the Americas in search of new lands and opportunities. They found a land of vast natural resources and a people who had developed a rich and complex civilization. The settlers and the native Americans lived in peace for many years, but the discovery of gold and other precious metals led to a period of conflict and displacement. The United States was born as a result of the American Revolution, a struggle for independence from British rule. The new nation was founded on the principles of liberty, justice, and equality, and it has since grown into a great power that has shaped the world.

The United States has a long and rich history, and it is a country that has made many contributions to the world. It is a country of great diversity, with people from many different backgrounds and cultures living together in harmony. The United States is a country of great opportunity, and it is a country that has made many great achievements. The history of the United States is a story of a people who have overcome many challenges and who have built a great nation.

The United States is a country of great diversity, and it is a country that has made many contributions to the world. It is a country of great opportunity, and it is a country that has made many great achievements. The history of the United States is a story of a people who have overcome many challenges and who have built a great nation. The United States is a country of great diversity, and it is a country that has made many contributions to the world. It is a country of great opportunity, and it is a country that has made many great achievements. The history of the United States is a story of a people who have overcome many challenges and who have built a great nation.

September 30, 1992. In addition, San Jose shall timely exercise (or cause the timely exercise of) its option from the Santa Clara Transit District to acquire that portion of the Premises now owned by the District (unless San Jose has previously acquired such property by other means). The acquisition shall be on the terms set forth in the Option Agreement between San Jose and the District dated June 17, 1986, as amended June 25, 1991, or on such other terms as San Jose may agree (consistent with clauses (a) and (b) of this Section 1). Unconditional and mutually binding agreements to acquire those portions of the Premises not subject to the lease with the State shall be fully executed no later than September 30, 1992. San Jose shall complete its acquisition of the entire Premises no later than a date to be set forth in the critical path schedule referred to in Section 4.2, and shall arrange for entry rights prior to the date set forth in that schedule as reasonably necessary or desirable for the parties to carry out their obligations under the Transaction Documents. San Jose shall lease the Premises to the Giants pursuant to the Lease. San Jose shall covenant in the Lease to fully comply with all provisions of the lease with the State of California, or the provisions of any other documents that affect the Premises, so that the Premises are available to the Giants on terms consistent with clauses (a) and (b) of this Section 1; the Giants shall make a similar covenant to the extent such provisions apply to the Giants (e.g. use clauses and the like). If San Jose fails to so comply, the Giants may, in addition to any other legal or equitable remedies, cure such non-compliance and offset the cost of such cure against the rent otherwise due to San Jose. Further, the lease with the State, and any other lease or license affecting the Premises, shall contain a non-disturbance provision reasonably acceptable to the Giants.

2. Hazardous Materials. San Jose, at no cost to the Giants, shall remove or cause the removal and cleanup of any hazardous materials on, under or in the air above the Premises so that the Premises are in a sufficient condition to permit construction and operation of the Ballpark Project, as reasonably determined by the Giants. "Hazardous materials" shall mean any substance which is designated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any applicable federal, state or local law, regulation or ordinance, as well as any petroleum hydrocarbon (including crude oil or any fraction thereof), petroleum product, flammable explosive, infectious material, radioactive material or carcinogenic or reproductive toxicant.

3. Environmental Impact Report and Federal Requirements. San Jose, at its sole cost, shall prepare an environmental impact report ("EIR") for the Ballpark Project, using an EIR consultant reasonably acceptable to the Giants and consulting with the Giants and providing drafts for review and comment as the EIR evolves. The EIR shall be processed by San Jose as the lead agency. The EIR shall be approved and certified, and the time for challenging the adequacy of the EIR shall have expired without a challenge then pending, no later than a date to be set forth in the critical path schedule. San Jose, at its sole cost, also shall comply with the Endangered Species Act, 16 USC §§ 1531-44, and the Federal Water Pollution Control Act, 33 USC §§ 1251-1387, including without limitation (if the parties reasonably agree it is necessary) preparing an endangered species survey and wetlands delineation of the Premises, using consultants reasonably acceptable to the Giants and consulting with the Giants and providing drafts for review and comment as the survey and delineation evolve. San Jose, at no cost to the Giants, shall complete any remediation or mitigation measures required in the Resolution of Findings adopted by San Jose in connection with the EIR, as finally approved and certified, or required pursuant to the statutes specified above or any other federal laws, so long as such measures are within San Jose's jurisdictional power; provided that (a) any mitigation to be incorporated into the design and construction of the Ballpark Project (such as light shields or sound attenuation but excluding any monitoring wells, which shall be San Jose's responsibility) shall be part of the construction budget referred to in Section 4.3, and (b) any mitigation affecting operation of the Ballpark Project shall be allocated between the parties as provided in Section 9. All of the remediation and mitigation (other than that affecting operation) shall be completed in sufficient time to meet the dates set forth in the critical path schedule. The parties acknowledge that certain potential remediation or mitigation measures (e.g. flood control, upgrades of Highways 237 and 880 and installation of light rail) are not within San Jose's jurisdictional power, nor is the San Jose/Santa Clara water pollution control plant within San Jose's sole control. As to such measures, San Jose's obligation shall be to fully cooperate and use its influence to cause completion of such measures in a timely manner (without, however, advancing funds therefor to the parties responsible for such measures).

4. Design, Construction and Funding of the Ballpark Project. The Giants shall design and build the Ballpark Project, which shall comprise a first-class, state of the art, open-air baseball park with natural grass and a seating capacity of approximately 48,000, together with parking and related facilities. The design, construction and funding of

the Ballpark Project shall be on the following general terms and conditions, which shall be set forth either in the Lease or in a separate Development Agreement (as the parties shall determine):

4.1. Soils Study. San Jose, at no cost to the Giants, has employed Woodward-Clyde Consultants to conduct a soils study of the Premises, the scope of which shall be reasonably acceptable to the Giants. The parties acknowledge that the Giants are relying on this study. The study shall be completed no later than May 1, 1992. The Giants shall have 60 days after receipt of such study (but not later than June 26, 1992, so long as such study has been completed and delivered to the Giants on or before May 1, 1992) to notify San Jose whether it is feasible to proceed with the Ballpark Project in light of such study; failure to so notify San Jose shall be deemed an election to proceed. If the Ballpark Project does proceed, then as between the Giants and San Jose, the Giants shall be responsible for any increased costs due to soils conditions (subject to Section 13.2(b)(ii)), unless such increased costs were caused by the negligent acts or omissions or willful misconduct of San Jose in performing its obligations under the Transaction Documents, in which case San Jose shall be responsible.

4.2 Critical Path Schedule. On or before June 1, 1992, the parties shall agree upon a critical path schedule showing commencement of construction for the Ballpark Project in the first quarter of 1994 and completion of construction in sufficient time for the 1996 baseball season. The critical path schedule shall incorporate dates for commencement and completion of all of the activities (including without limitation the acquisition of the Premises, removal, cleanup, remediation, mitigation, construction of collateral improvements and site preparation referred to in Sections 1, 2, 3 and 5, respectively) required of San Jose, the Giants and other parties, together with time periods for any agency consultation process, in order to meet the 1994 commencement and 1996 completion dates. The critical path schedule shall become part of the Lease or Development Agreement, which shall specify the remedies available to the parties if dates on the schedule are not met. Such remedies shall be consistent with this MOU.

4.3. Design. On or before March 16, 1992, the Giants shall provide to San Jose a list of proposed architects to design the Ballpark Project. San Jose shall have 15 days after receipt of such list to suggest revisions to it; San

Jose's failure to deliver suggested revisions to the Giants in writing within that period shall be deemed to be an acceptance of the Giants' list. If San Jose does suggest written revisions in the time provided, then the parties shall negotiate in good faith to arrive at a final list no later than April 15, 1992. The Giants shall select an architect from that list. San Jose may offer comments during the selection process, but San Jose shall not exercise a vote on the architect to be selected. The Giants shall use commercially reasonable efforts to cause their architect to work with design professionals located in San Jose, where feasible. (The parties acknowledge that the Giants may select a design-build, construction management or hybrid process, and references in this MOU to the "architect" or "general contractor" are not intended to foreclose such choices.) The Giants shall have sole responsibility for design, but San Jose shall be furnished with copies of the architect's work product, from time to time, may be present at design presentations by the architect to the Giants, and may offer comments (without, however, exercising a vote). The parties acknowledge that the Ballpark Project shall be subject to San Jose's public project, architectural, site plan and master plan review process to be established for the Ballpark Project. Once that process has been completed, no new design issues will be raised by San Jose; unless the Giants materially change the design, the only issue after that point will be whether the plans and specifications for the Ballpark Project comply with applicable codes.

The Giants shall design to a construction budget not to exceed \$185 million, including all expenses in the preconstruction budget referred to in Section 4.6, as well as a reasonable construction contingency in a percentage to be specified in the Lease or Development Agreement. The Giants' agreement with their architect shall be consistent with this covenant.

4.4. Land Use Procedures. No later than April 15, 1992, San Jose shall provide to the Giants a written description of the bid process, MBE/WBE and prevailing wage requirements, public project, architectural, site plan and master plan review process to be established for the Ballpark Project, zoning, Subdivision Map Act and land use process (including without limitation whether any general plan amendment is required for the Ballpark Project), procedure for dealing with archeological issues, and any other procedures, that will apply to design and construction of the Ballpark Project. This information shall specifically include a description of the planned development process and of the scope and availability of a statutory land use development agreement

between the Giants and San Jose. It also shall include any policies San Jose intends to impose on the Ballpark Project to regulate cigarette, liquor or other advertising. San Jose shall consult with the Giants as this information is developed, and the Giants may offer comments on the proposed procedures. The Giants shall have 60 days after receipt of such information to notify San Jose in writing whether it is feasible to proceed with the Ballpark Project in light of such procedures; failure to so notify San Jose shall be deemed an election to proceed. If the Ballpark Project does proceed, it shall not be subject to additional design review or more restrictive procedures, unless such procedures apply generally to projects of comparable scope in San Jose (e.g. the convention center, the airport, the arena and the like). The permit, entitlement and other fees applicable to the Ballpark Project and payable to San Jose shall not exceed \$2.6 million. Such fees, or any other fees, shall be paid out of the construction budget referred to in Section 4.3.

4.5. Construction. On or before a date to be set forth in the critical path schedule, the Giants shall provide to San Jose a list of general contractors to construct the Ballpark Project. San Jose shall have the right 15 days after receipt of such list to suggest revisions to it; San Jose's failure to deliver suggested revisions to the Giants in writing within that period shall be deemed to be an acceptance of the Giants' list. If San Jose does suggest written revisions in the time provided, then the parties shall negotiate in good faith to arrive at a final list no later than 15 days after the Giants' receipt of the suggested revisions. The Giants shall select a general contractor from that list (or, if required by applicable law, shall solicit bids from general contractors on that list and others). The Giants shall use commercially reasonable efforts to include on the list general contractors located in San Jose, where feasible. The Giants shall cause their general contractor to obtain payment and performance bonds in amounts, and issued by a company, reasonably acceptable to San Jose. The bonds shall name the Giants and San Jose as dual obligees, with the Giants being the primary obligee. Copies of the bonds, as well as a copy of the Giants' contract with their general contractor, shall be delivered to San Jose prior to commencement of construction. Such contract shall contain appropriate provisions for the general contractor's delay in completing the Ballpark Project.

4.6. Funding. San Jose shall contribute \$155 million towards design and construction of the Ballpark Project, and the Giants shall contribute up to an additional

\$30 million (subject to adjustment pursuant to Section 13.2(b)(ii)). San Jose's funds may be used for all hard and soft costs connected with the Ballpark Project, including without limitation design, engineering and consultants' fees, attorneys' fees, insurance, on-site infrastructure, scoreboards, videoboards, luxury suites, loge seats and the like. San Jose's \$155 million for design and construction shall be in addition to the funds San Jose provides to acquire the Premises, remove and cleanup hazardous materials, complete remediation and mitigation, construct the collateral improvements and prepare the site, as referred to in Section 1, 2, 3 and 5, respectively. These funds also shall not be used to pay the costs of San Jose's preconstruction and construction representatives, as referred to in this Section 4.6, any of San Jose's financing costs or any amounts resulting from San Jose's breaches (or alleged breaches) of the Transaction Documents.

No later than June 3, 1992, the parties shall agree on a detailed line item preconstruction budget, which shall include a reasonable contingency. Subject to litigation of the kind referred to in Section 13.1(f), no later than July 1, 1992 San Jose shall appropriate the sums required under the budget and from time to time thereafter shall deposit the funds required by the preconstruction budget for the succeeding 90 day period, with a financial institution or other third party reasonably satisfactory to both the Giants and San Jose. Interest earned on the funds shall accrue to San Jose. San Jose, at no cost to the Giants, shall designate a preconstruction representative, who shall approve or disapprove invoices presented by the Giants within five business days after receipt. Such invoices shall be approved so long as they are in proper form (including a certification by the Giants that the services covered by such invoice have in fact been performed) and consistent with the preconstruction budget. Any disapproval must be in writing and accompanied by specific reasons for disapproval; failure to respond within the five day period shall be deemed to be approval. Funds shall be distributed to the Giants as they present to the third party invoices approved by the preconstruction representative. The parties shall reasonably agree upon use of the contingency.

Prior to commencement of construction, (a) San Jose shall deposit with the third party referred to above that portion of the \$155 million not previously deposited during the preconstruction phase and (b) the Giants shall provide assurance to San Jose, acceptable to San Jose in its good faith discretion, that the construction funds to be provided by the Giants (calculated in accordance with the schedule of values in the construction contract) shall be available as required.

Interest earned on the construction funds shall accrue to the party depositing the funds. Unless the parties mutually agree otherwise (as, for instance, they might in order to allocate to the Giants the cost of removable personal property that constitutes a long lead item), construction distributions initially shall be funded with San Jose's \$155 million. When those funds are expended, construction distributions shall be funded by the Giants. The Development Agreement shall address the issue of allocating the Giants' construction contribution to particular components of the Ballpark Project.

San Jose, at no cost to the Giants, shall designate an on-site construction representative who shall approve or disapprove requests for payment (so long as such payment is to be made from San Jose's \$155 million) within three business days after receipt of a request approved by the Giants. Any disapproval by the construction representative must be in writing and accompanied by specific reasons for disapproval; failure to respond within the three day period shall be deemed to be approval. Funds shall be distributed to the Giants as they present to the third party their contractor's requests for payment approved by the construction representative.

The Lease or Development Agreement shall contain procedures for resolving disputes between the Giants and San Jose relating to payment and damages issues arising during both the preconstruction and construction periods. It also shall specify the role of San Jose's construction representative, which generally shall be limited to observing the progress of construction for compliance with the plans and specifications and reviewing requests for payment to determine whether (x) the request is in proper form, (y) the work covered by the request has been performed and the material delivered and (z) the request is in accordance with the schedule of values, as such schedule may be revised from time to time. Further, if San Jose's preconstruction or construction representative unreasonably disapproves or delays an invoice or request for payment, then San Jose shall be liable for all delay damages and any other claims, liabilities and expenses resulting therefrom.

5. Collateral Improvements and Site Preparation.
San Jose, at no cost to the Giants, shall (a) construct, and during the Lease term maintain in a satisfactory condition consistent with the first-class operation of the Ballpark Project, certain collateral improvements, including without limitation upgrades of Zanker Road and Tasman Drive, a soundwall and pedestrian walkway and tunnel, and install

certain off-site landscaping, and (b) in addition to the removal and cleanup referred to in Section 2, perform certain site preparation work, such as relocating existing utilities and bringing to the Premises utilities of a specified size. No later than April 15, 1992, San Jose shall develop (in conjunction with the Giants) and deliver to the Giants a plan in such detail as the Giants may reasonably require setting forth all collateral improvements and site preparation work. The plan shall include a detailed line item budget specifying the cost of such work. The parties acknowledge that certain elements of this plan (e.g. flood control, water pollution control plant, upgrades of Highways 237 and 880, installation of light rail service) may be performed by parties other than San Jose, and as to those parties San Jose's obligation shall be to fully cooperate and use its influence to cause completion of such elements in a timely manner pursuant to the agreed upon plan (without, however, advancing funds therefor to such parties). The Giants shall have 60 days after receipt to disapprove this plan. Such disapproval must be in writing and accompanied by specific reasons for disapproval and suggested resolutions; failure to so disapprove shall be deemed acceptance. If the parties are unable to resolve their differences within 60 days after the Giants' delivery of their disapproval, then the Transaction Documents shall terminate and the parties shall be released from their obligations thereunder, except for San Jose's indemnity obligations pursuant to Section 15 of this MOU.

6. Term. The term of the Lease shall be for a period of thirty years, commencing on the first day of March following substantial completion of the Ballpark Project, or such earlier date as the Giants actually use the Ballpark Project for the exhibition of Major League baseball games. The Giants shall have a right of entry to construct the Ballpark Project, and to occupy their business offices, prior to commencement of the Lease, subject to mutually acceptable insurance and indemnity obligations. "Substantial completion" shall mean that the Ballpark, the parking areas and related facilities, and all collateral improvements (whether on or off site) are sufficiently completed so that the Ballpark Project can be used at its full capacity for the exhibition of Major League baseball games. The Giants may elect an earlier commencement date in their sole discretion and upon giving appropriate written notice. If the Giants elect to commence the Lease during a baseball season, the term of the Lease shall run until December 31 of the thirtieth year following the commencement date.

7. Use. The Giants shall have sole and exclusive use of the Ballpark Project during the Lease term; provided that, San Jose shall have the right to use the Ballpark, if available, for public assemblies at cost (including both on and off-site expenses) and without payment of rent for up to ten times each calendar year during the Lease term (or a proportionate number of times during a partial calendar year). San Jose either shall not charge for admission to such events, or shall designate any revenues received therefrom for charitable or civic purposes. All of the dates for San Jose's use must be scheduled with the Giants at least 120 days in advance, and neither the timing nor the type of use shall interfere with or in any way impair the Giants' use. The Giants shall have the right to reschedule any such event by written notice to San Jose delivered at least 45 days before the event is then scheduled to occur, unless the Giants in their sole discretion waive such rescheduling right in writing at the time San Jose's event is scheduled.

Except as specifically provided in Section 8, the Giants shall be entitled to all revenues generated by the Ballpark Project during the Lease term. The Giants may use the Ballpark Project for any legal purpose. Subject to applicable laws, rules and ordinances (including without limitation issuance of appropriate permits), the permitted uses at the Ballpark Project shall include without limitation (a) the exhibition of Major League baseball games and all purposes related and/or incidental thereto, including without limitation the holding of try-outs, the performance of practice, exhibition and old-timers games, and the sale of food, alcoholic and non-alcoholic beverages, souvenirs and novelties; (b) the performance of other sports events, concerts, fireworks displays, shows, fairs, markets and exhibitions; (c) the operation of health club(s), restaurant(s), private clubs, fantasy and baseball camps, a hall of fame, medical facilities, retail outlets, children's and fantasy-fun areas, public assembly and media areas, printing, radio and television broadcasting facilities; (d) the conduct of the Giants' business operations; (e) the sale and display of advertising (subject to San Jose's policies referred to in Section 4.4); and (f) parking.

8. Rent. The rent to be paid by the Giants to San Jose shall consist of the following:

8.1. Fixed Rent. The Giants shall pay to San Jose a fixed rent of \$3 million per year in quarterly installments in arrears (the "Fixed Rent Obligation"). This

Obligation shall commence with the commencement of the Lease term and extend thereafter for 36 months (the "Fixed Rent Term"); provided that (a) if commencement of the Lease term is delayed solely because of the Giants' negligent acts or omissions or willful misconduct, then the Fixed Rent Obligation shall commence at the time the Lease term would have commenced but for such negligence or misconduct, (b) if the Lease term commences after March 1 in any year, then the Fixed Rent Obligation shall be deferred until the commencement of the next calendar year and (c) if during the Fixed Rent Term the Giants are unable to play their scheduled home games at the Ballpark Project, or attendance materially declines, because of force majeure events (to be defined more specifically in the Lease), then for any calendar month during which this force majeure provision applies, the Giants' rent obligation shall be the lesser of \$250,000 or the percentage rent for such month calculated pursuant to Sections 8.2 (only percentage rent shall be paid for any partial month). If such rent obligation is less than \$250,000 for any calendar month, then the Fixed Rent Term shall be extended so that it aggregates a full 36 months.

8.2. Percentage Rent. Commencing with the expiration of the Fixed Rent Term and thereafter during the Lease term, as well as during any deferral of the Fixed Rent Term or non-payment of the Fixed Rent Obligation pursuant to Section 8.1(b) or (c), the Giants shall pay to San Jose the percentage rent set forth below for events and parking at the Ballpark Project.

(a) Regular Season Major League Baseball Games. 5% of gross revenues received for paid admissions to regular season Major League baseball games. "Paid admissions" refers solely to tickets sold, not to rental received for luxury suites, loge seats and the like; for purposes of determining paid admissions, the ticket component of such rentals shall be deemed to be the then highest price for a grandstand ticket. "Gross revenues" shall include revenues after deducting all taxes, including without limitation sales and admission taxes (whether imposed now or in the future), but before deducting League and Visitors' Shares. "Regular season" shall mean the schedule of dates regularly adopted by Major League Baseball or the National League for the playing of games between the Giants and other members of the National League that establish the official standings for the teams to qualify for the championship season; it shall not include practice, exhibition, All-Star, League Championship Series or World Series games and such other pre- or post-regular season games as may be authorized by Major League baseball from time to time. Notwithstanding the above, San Jose shall share in gross

revenues, pursuant to the above formula, for paid admissions to the eleventh and any additional practice or exhibition games played by the Giants at the Ballpark Project outside the regular season.

(b) Parking. 15% of net revenues received from revenue producing parking stalls generated during regular season Major League baseball games, as well as during all All-Star and pre- and post-regular season baseball games as may be authorized by Major League baseball from time to time, including without limitation practice, exhibition, League Championship Series or World Series games. "Net revenues" shall mean gross revenues collected from parking, less a flat deduction of 15% of the gross to cover the costs and expenses allocable to generation of parking revenues.

(c) Non-Major League Baseball Events. The first \$387,500 of net revenues received during each Lease year for non-Major League baseball events at the Ballpark, with the Giants retaining the next \$662,500 of such net revenues and San Jose and the Giants dividing equally all such revenues thereafter. "Net revenues" shall mean all revenues collected in connection with non-Major League baseball events, including paid admissions to such events, revenue from parking stalls generated during and for three hours before such event and revenues from all concessions open during such event (but excluding any revenues generated by any health club, hall of fame, restaurant or stadium club, retail outlet or similar facility) after deducting all costs and expenses allocable to and incurred in connection with the generation of such revenues, including without limitation the cost of personnel, promotion, materials, supplies, equipment, fixtures, utilities, insurance, taxes, maintenance and reasonable reserves for repair or replacement (except to the extent such reserves are never spent). "Non-Major League baseball events" include sports events, such as college baseball, concerts, shows, exhibitions, fairs, markets and other events not in any way connected to Major League baseball; this term specifically excludes (i) regular season Major League baseball games and practice, exhibition, All-Star, League Championship Series and World Series games and such other pre- or post-regular season games as may be authorized by Major League baseball from time to time and (ii) all promotional events sponsored by the Giants in connection with Major League baseball, e.g. fan fairs and fantasy camps.

(d) Payment of Percentage Rent. The amounts payable under this Section 8.2 shall be calculated annually on the basis of cash received by the Giants and paid in quarterly installments in arrears. The first three installments shall be due 30 days after the close of each quarter and shall be accompanied by a quarterly statement showing the calculation of such amount. The final installment shall be due 60 days after the close of the fourth quarter and shall be accompanied by an annual statement showing the aggregate amount due for the year and any adjustments made to arrive at the final installment. The Giants' books and records supporting such calculations shall be available for review by San Jose for a three-year period following delivery of each annual statement.

Any and all charges and fees for events or operations at the Ballpark Project, including without limitation all ticket prices, parking charges, luxury suite and loge seat rentals, and arrangements with concessionaires, shall be set by the Giants in their sole discretion; provided that, as to concessionaires, the Giants shall (i) require in the concession agreement that concessionaires operate during all non-Major League baseball events and (ii) negotiate at arms length and in good faith the Giants' share of concession revenues for non-Major League baseball events. The parties acknowledge that the concessions for Major League baseball games are more valuable than for non-Major League baseball events, so good faith does not require the same revenue sharing for both kinds of events; it requires merely that the Giants do not act in bad faith in negotiating a package deal. The Giants shall notify San Jose in advance of increases in ticket prices, parking charges, and luxury suite and loge seat rentals, but the Giants failure to so notify shall not affect such increases.

8.3. Naming Rights. The Giants and San Jose shall share equally in the net revenues received from the disposition of naming rights to the Ballpark. "Net revenues" shall include all revenues received less the retail value of components comprising the naming package other than the name itself, e.g. luxury box rental and tickets. The parties shall cooperate in good faith in formulating a naming package, but each party retains the right in its sole discretion to disapprove the proposed name. If the naming rights are not sold, the parties shall mutually agree to a name for the Ballpark Project prior to its opening.

9. Operation. Subject to Section 10, the Giants, at no cost to San Jose, shall operate the Ballpark Project as a first-class professional Major League baseball facility in

compliance with applicable laws, rules and ordinances. San Jose, at no cost to the Giants, shall provide all off-site traffic, crowd control and security for all regular season Major League baseball games (as well as for all All-Star and pre- and post-regular season games in which San Jose is entitled to share in parking revenue pursuant to Section 8.2(b)), as reasonably determined by San Jose in conjunction with the Giants; provided that, as to All-Star and pre- and post-regular season games, if San Jose's share of the parking revenues fails to cover San Jose's out-of-pocket cost for providing such services, then the Giants shall pay the shortfall to San Jose within 30 days after receipt of reasonable documentation supporting the shortfall. At least once during each Lease year, and more often if either party desires, the parties shall review the scope of such traffic, crowd control and security services to ensure that the level of service is consistent with the first-class operation of the Ballpark Project.

10. Maintenance and Repair. The Giants, at no cost to San Jose, shall maintain the Ballpark Project in a first-class condition, including making all necessary capital repairs and replacements (except in the event of damage or destruction as provided below) excluding any damage caused by acts or omissions of San Jose (which San Jose shall repair promptly and in a first-class manner). In the event the Ballpark Project is damaged or destroyed, the Giants shall repair or replace the Ballpark Project so long as a team of design and building professionals chosen by the Giants and reasonably acceptable to San Jose determines that (a) the full cost of repair and replacement is covered either by insurance proceeds or by funds San Jose is required to provide under Section 12 and (b) the repair or replacement can be substantially completed within 18 months after the date of damage or destruction. If the above conditions are not met, then the Giants, by written notice to San Jose within 90 days after the above determination, may elect to terminate the Lease. If the damage or destruction occurs in the last five years of the Lease term and the design and construction professionals determine that, although clause (a) above is satisfied, the repair or replacement cannot be substantially completed within nine months, then either party, by written notice to the other within 90 days after such determination, may elect to terminate the Lease. During any such period of restoration, the Giants shall be excused from their obligation to play home games in the Ballpark. Likewise, if applicable laws, rules or ordinances require an expenditure in excess of an amount to be specified in the Lease in order to maintain or operate the Ballpark Project in compliance with the same, then

the Giants shall be afforded relief from such burden in a manner to be specified in the Lease.

11. The Giants' Additional Obligations. The Giants, during the Lease term, shall undertake the obligations set forth below.

11.1 Home Games. Subject to Section 10 and other events of force majeure, the Giants shall not relocate and shall play all of their home games at the Ballpark; provided that, the Giants may play practice and exhibition games in such numbers as they deem appropriate at other locations.

11.2 Name. On or before the commencement date of the Lease, the Giants shall rename the baseball team the San Jose Giants, and all activities of the Giants related to the baseball team shall be performed under such name.

11.3 Good Standing. The Giants shall maintain their membership in good standing in the National League and comply in all material respects with all requirements of Major League Baseball and the National League.

11.4 Liability Insurance. The Giants shall maintain commercial general liability insurance, with minimum combined bodily injury and property damage limits to be specified in the Lease. Such insurance shall name San Jose as an additional insured and shall provide for 30 days notice to San Jose of expiration, cancellation or material modification. The Giants also shall cause any promoter using the Ballpark Project for a non-Major League baseball event to maintain appropriate insurance and to name the Giants and San Jose as additional insureds. The Giants also shall provide any additional insurance specified in the Lease.

12. San Jose's Additional Obligations. San Jose, during the Lease Term, shall undertake the obligations set forth below.

12.1 Reimbursement. San Jose shall reimburse the Giants for any possessory interest tax levied by any entity, or for any admissions tax levied by San Jose or any other tax of any kind levied by San Jose on the Giants in

connection with the Ballpark Project and not generally levied on businesses within San Jose, within 30 days after delivery of an invoice therefor from the Giants. If such reimbursement is not made, the Giants may, in addition to any other legal or equitable remedies, offset such taxes against rent otherwise due to San Jose.

12.2 Property Insurance. San Jose shall maintain broad form extended coverage fire insurance, covering the entire Ballpark Project and all improvements thereon and all equipment, machinery, fixtures and furnishings, against loss or damage by lightning, fire, vandalism, malicious mischief, riots and civil commotion equal to one hundred percent of the then current replacement cost, with a deductible not exceeding an amount to be specified in the Lease. The policy shall contain a guaranteed replacement cost endorsement. Such insurance shall name the Giants as additional insureds, as their interests appear, and shall provide for 30 days' notice to the Giants of cancellation, expiration or material modification. If San Jose fails to provide such insurance, then the Giants, in addition to any other legal or equitable remedies, shall have the right but not the obligation to provide such insurance themselves and offset the premiums therefor against rent otherwise due to San Jose. The proceeds of such insurance shall be available to the Giants for the purposes of repair or replacement of the Ballpark Project, as provided in Section 10. Also, if the Ballpark Project is damaged or destroyed by an event which would have been covered by the policy specified above but was not, then San Jose itself shall provide sufficient funds to repair or replace the Ballpark Project, if the Giants are required or elect to repair or rebuild. San Jose also shall provide sufficient funds to cover any and all deductibles. San Jose also shall provide any additional insurance specified in the Lease. The issue of earthquake insurance, and the parties' rights and obligations as to restoration of the Ballpark Project in the event of damage or destruction caused by an earthquake, shall be dealt with in the Lease; provided that, in any event, San Jose shall pay an annual premium not to exceed \$400,000 for earthquake insurance.

13. Conditions. The obligations of the parties under this MOU are conditioned on the following milestones being achieved no later than the dates set forth. Time is of the essence in achieving these milestones and the dates are not extendable by force majeure. Any milestones not achieved as of the date the Lease and/or Development Agreement is executed shall be incorporated therein. The parties shall use commercially reasonable efforts to achieve such milestones on

or before the dates indicated, including without limitation providing required information in sufficient time for the other party to reasonably review and respond to it by the date set forth. The parties shall cooperate fully and in good faith with each other so that each party may achieve the milestones for which it is responsible. All governmental action(s), including approvals, required in connection with this MOU shall be taken only in compliance with all applicable laws, rules and ordinances.

As to the 1992 Conditions set forth in Section 13.1, the failure of any such condition shall cause the Transaction Documents to terminate, and the parties shall be released from their obligations thereunder, except for San Jose's indemnity obligations pursuant to Section 15. The parties acknowledge that, as to Section 13.1(e), the failure of the condition must be triggered by the Giants' notice, as set forth in Sections 4.1 and 4.4. As to the 1993 Conditions set forth in Section 13.2, the parties' termination rights and liabilities shall be as expressly set forth in that Section, but in any event San Jose's indemnity obligations pursuant to Section 15 shall survive.

13.1. 1992 Conditions. The following conditions all have milestone dates on or prior to September 30, 1992.

(a) MOU. Approval of this MOU by the San Jose City Council -- March 6, 1992.

(b) Lease. Execution of the Lease and of all the other agreements between the parties required by this MOU, including without limitation the Development Agreement (if any) -- June 1, 1992.

(c) Acquisition of the Premises by San Jose. (i) Execution of an unconditional and binding agreement to enter into a lease between San Jose and the State of California covering a portion of the Premises, as referred to in Section 1 -- September 30, 1992; (ii) timely exercise by San Jose (or San Jose causing the timely exercise) of its option from the Santa Clara Transit District to acquire a portion of the Premises, as referred to in Section 1 -- June 17, 1992; and (iii) execution of an unconditional and binding agreement to acquire that portion of the Premises not subject to the lease referred to in clause (i) above -- September 30, 1992.

(d) Schedule. Agreement by San Jose and the Giants to a critical path schedule -- June 1, 1992.

(e) Feasibility. (i) Approval by the Giants of the soils study, as referred to in Section 4.1 -- no later than June 26, 1992 (subject to Section 4.1); and (ii) determination by the Giants of whether it is feasible to proceed with the Ballpark Project in light of the information to be provided by San Jose pursuant to Section 4.4 -- no later than June 15, 1992.

(f) Funding. (i) inclusion of a measure permitting use of San Jose's general funds for the Ballpark Project on the ballot for the election scheduled for June 2, 1992, and such measure proceeding to election as scheduled -- June 2, 1992; (ii) passage of such ballot measure by San Jose -- date of certification of the general election scheduled for June 2, 1992; (iii) expiration of the time to file litigation contesting the validity of the ballot measure without any litigation being filed that would impact the Ballpark Project -- 90 days after the certification date; (iv) agreement by San Jose and the Giants to a preconstruction budget -- June 3, 1992; and (v) resolution of any litigation that prevents San Jose from funding such budget, and San Jose then proceeding to fund such budget, as provided in Section 4.6 -- September 15, 1992.

(g) Construction of Collateral Improvements and Site Preparation. Approval by the parties of the proposed plan for construction of collateral improvements and site preparation as referred to in Section 5 -- no later than August 13, 1992.

(h) Commissioner Approval. Approval by the Commissioner of Baseball, and any other required approvals from Major League Baseball, of the Transaction Documents -- [30] days after such Document is fully executed.

13.2. 1993 Conditions. The following conditions all have milestone dates subsequent to September 30, 1992.

(a) San Jose's Conditions.

(i) EIR and Federal Requirements. Determination by San Jose, reasonably and in good faith, that

it has sufficient funds to complete the remediation and mitigation for which it is responsible under Section 3, as well as the removal, cleanup, construction of collateral improvements and site preparation for which it is responsible under Sections 2 and 5, respectively -- July 1, 1993. If such costs exceed \$50 million, San Jose shall be deemed to be acting reasonably and in good faith if it determines it is unable to fund above that amount.

(ii) Funding. Determination by San Jose, reasonably and in good faith, that it can issue sufficient securities at commercially reasonable rates and subject to commercially reasonable issuance costs, or obtain alternate financing, in order to provide its \$155 million share of Ballpark Project design and construction funds -- July 1, 1993. If the interest rate exceeds 7.5% or the issuance costs exceed 12%, San Jose shall be deemed to be acting reasonably and in good faith if it determines it cannot issue securities at such rates and costs.

(iii) Effect of San Jose's 1993 Conditions. San Jose may terminate the Transaction Documents without liability (except for its indemnity obligations pursuant to Section 15) if it exercises its right to terminate by written notice to the Giants on or before 5:00 p.m. California time on the dates indicated. Failure to so exercise shall be deemed a waiver of such termination rights. If San Jose has not waived such conditions as of April 1, 1993, then the Giants are free to deal with other parties interested in purchasing or relocating the Giants, but the Giants may not enter into a binding agreement with such parties until and unless San Jose exercises its right to terminate or the Transaction Documents otherwise terminate.

(b) Giants' Conditions.

(i) EIR and Federal Requirements. If (A) the EIR, as finally approved and certified, (B) the federal statutes, referred to in Section 3, as finally imposed, or (C) the failure of parties other than San Jose to complete their obligations under Sections 3 and 5 (or their likely failure to do so on a timely basis), materially and adversely impacts the Ballpark Project, then the Giants may terminate the Transaction Documents without liability by written notice to San Jose within a period to be specified in the Lease. Failure to so exercise shall be deemed to be a waiver of such termination right.

(ii) Construction Bids. If construction bids for the Ballpark Project exceed \$185,000,000 but are less than \$192,400,000 (including the agreed-upon contingency), then the Giants may either redesign and rebid to \$185,000,000 or pay the difference themselves. If construction bids for the Ballpark Project exceed \$192,400,000 (including the agreed-upon contingency), then the Giants may elect to terminate the Transaction Documents without liability by written notice to San Jose within 30 days after receipt of the bid, or redesign and rebid or pay the difference themselves. Failure to so exercise shall be deemed to be a waiver of such termination right. Once the Giants have entered into a construction contract specifying a construction cost acceptable to the Giants, then as between the Giants and San Jose, the Giants shall be responsible for any cost overruns (unless such overruns result from San Jose's breaches of the Transaction Documents).

(iii) Inability to Commence Construction. If by reason of force majeure (to be defined more specifically in the Lease or Development Agreement but to include without limitation any legal action(s) which enjoin construction or seek to invalidate a condition to construction, e.g. a challenge to the EIR) the Giants are unable to commence construction of the Ballpark Project in sufficient time so that the Ballpark Project can be used for the 1996 baseball season, then the Giants may terminate the Transaction Documents without liability by written notice to San Jose delivered by a date to be specified in the Lease. Failure to so exercise within 60 days after such date shall be deemed to be a waiver of such termination right.

14. Irreparable Harm. The Giants acknowledge that if they were to breach the Lease by relocating during the first 15 years of the Lease term, San Jose would suffer irreparable harm. The failure to extend this acknowledgment to the second 15 years of the Lease term is not to be construed as a waiver of San Jose's right to claim irreparable harm, but during that period any such claim shall be evaluated by the court without the benefit of any prior acknowledgment by the Giants.

15. Indemnity. San Jose shall indemnify, defend and hold harmless the Giants, their officers, directors, agents, attorneys and representatives from any claims, liabilities or expenses arising from or relating to:

(a) the election referred to in Section 13.1(f) of this MOU;

(b) San Jose's proposed plan for financing the Ballpark Project; or

(c) any other executive, administrative or legislative action undertaken by or on behalf of San Jose, or any issue of voter approval relating to this MOU or the Ballpark Project.

The Giants authorize the San Jose City Attorney's Office to act as lead counsel in defending the Giants in connection with any claims or actions set forth above, but the Giants reserve the right to separate representation if, in the Giants' sole discretion exercised in good faith, the Giants determine that a conflict exists. In such event, the Giants shall pay their own attorneys' fees, but San Jose shall indemnify the Giants against any other liabilities or expenses (provided that, any settlement separately made by the Giants shall be subject to San Jose's reasonable approval if San Jose is to fund it). Also, the Giants shall not seek to disqualify the San Jose City Attorney's Office in any such litigation, unless that Office is acting in bad faith.

Indemnities relating to the construction, management, operation and maintenance of the Ballpark Project and collateral improvements (as referred to in Section 5) shall be addressed in the Lease and Development Agreement.

16. Notices. All notices, demands, approvals and other communications provided for in this MOU shall be in writing and shall be effective (a) when personally delivered to the recipient at the recipient's address set forth below; (b) five (5) business days after deposit in a sealed envelope in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; or (c) one (1) business day after deposit with a recognized overnight courier or delivery service, addressed to the recipient as set forth below, whichever is earlier. If the date on which any notice to be given hereunder falls on a Saturday, Sunday or legal holiday, then such date shall automatically be extended to the next business day.

The addresses for notices are:

The Giants:

Corey Busch
Executive Vice President-Administration
San Francisco Giants
Candlestick Park
San Francisco, CA 94124

With a copy to:

James C. Fowler, Esq.
McCutchen, Doyle, Brown & Enersen
Three Embarcadero Center
San Francisco, CA 94111

San Jose:

City Manager
City of San Jose
801 North First Street
San Jose, CA 95110

With copies to:

City Attorney
City of San Jose
151 West Mission Street
San Jose, CA 95110

Sanford A. Berliner, Esq.
Berliner, Cohen & Biagini
Ten Almaden Boulevard, Eleventh Floor
San Jose, CA 95113-2233

Either party may change its address by written notice to the other given in the manner set forth above.

17. Nondiscrimination. The Giants shall comply with all applicable non-discrimination laws, rules and regulations.

18. Non-Assignability. This MOU may not be assigned by either the Giants or San Jose without the other party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

19. Dates. Unless otherwise expressly indicated, time periods are measured in calendar days and any period that otherwise would expire on a Saturday, Sunday or legal holiday shall automatically be extended to the next business day.

20. Authority. The Giants represent and warrant that execution, delivery and performance of this MOU has been authorized by all necessary actions to be undertaken on their behalf. San Jose represents and warrants that the execution, delivery and performance of this MOU have been authorized by all necessary actions to be undertaken on its behalf.

SAN FRANCISCO GIANTS

By: 

Its: Chairman

Dated: 3/1/92

THE CITY OF SAN JOSE

By: 

Its: Mayor

Dated: 3/3/92

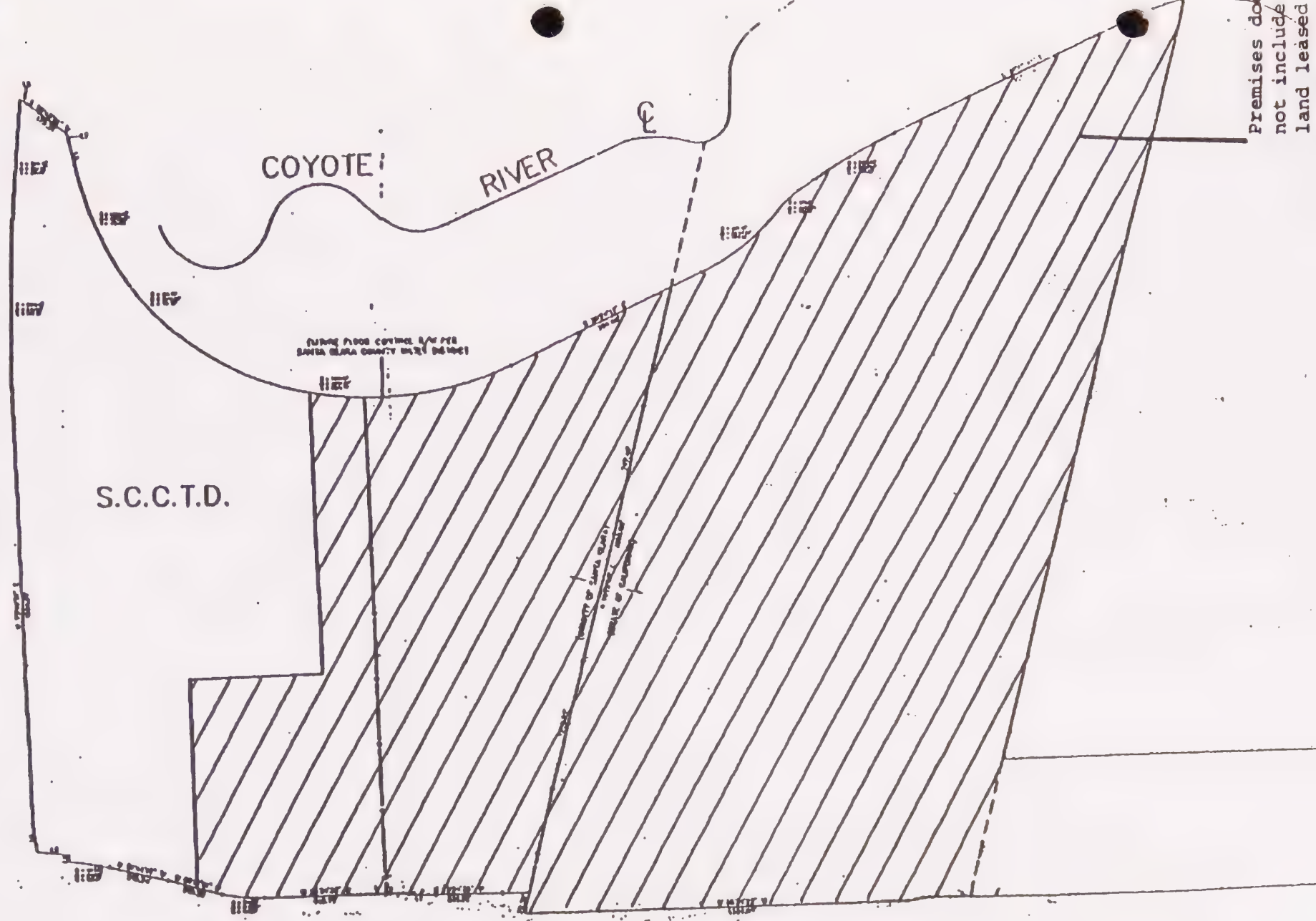
APPROVED AS TO FORM:

By: 

Deputy City Attorney

Premises do
not include
land leased

HIGHWAY 237



COYOTE

RIVER

S.C.C.T.D.

FLOOD FLOOD CONTROL S/W PER
SANTA CLARA COUNTY DISTRICT

PROPERTY OF SANTA CLARA COUNTY
SANTA CLARA COUNTY DISTRICT

ZANKER ROAD

EXHIBIT A

_____, 1992

Mr. J. Frank Davidson
Assistant Chief
Office of Real Estate and Design Services
Department of General Services
400 "R" Street, Suite 5000
Sacramento, CA 95814

Re: San Jose/Giants

Dear Mr. Davidson:

This letter summarizes certain proposed terms and conditions to be used by the parties as a basis for the negotiation of an option to lease and lease for the Property described in paragraph 1 below. This letter is meant to be used as the basis of further discussions only, and is not meant to be a binding agreement between the parties. The parties acknowledge that all undertakings by the City of San Jose ("Tenant") and the State of California ("Landlord") described in this letter are subject to the budgetary, hearing and other requirements of applicable charters, and state and federal law. The Tenant and Landlord each reserve the discretion to enter into or not enter into any option to lease, lease and/or other agreements contemplated hereunder, subject in all respects to applicable environmental requirements and other considerations.

1. Property. The Landlord owns certain real property more particularly described on Exhibit "A" attached hereto (the "State Property"). The property, which is the subject of the current negotiations, consists of approximately one hundred and two-tenths (100.2) acres of the State Property, the general location of which is outlined on Exhibit "B" attached hereto ("Property"). The legal description of the Property will be set forth in the option to lease, although the option to lease will allow for minor adjust-

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ments to the Property's boundaries prior to execution of the lease as needed to accommodate any site constraints identified in the EIR for the project, such as the Santa Clara Valley Water District flood control easement area, the Hetch Hetchy area, the Tasman Drive right-of-way area and the widening of Zanker Road. The final configuration and legal description of the Property will not affect the option consideration or annual rent described in Paragraph 4 below, provided that the total acreage of the Property, prior to required road dedications, is approximately 100.2 acres.

2. Use. It is contemplated that the Tenant will develop the Property and other property adjacent to or in the vicinity of the Property for use as an open air baseball park, with parking and other related improvements (the "Ballpark"). Tenant will have the right to construct such improvements on the Property from time to time as may be desired by the Tenant for uses that are related or incidental to baseball or other sports-related uses, subject to the requirements ("the Setback Requirements") that (i) no permanent buildings can be constructed within four hundred (400) feet from any hospital building currently located on the portion of the State Property not leased to the Tenant (the "Retained Site"), and (ii) a fence or buffer landscaping, or at Tenant's option both, with a height at maturity of at least four to five feet will be erected on the southern boundary of the Property which borders Center Road, to prevent Ballpark patrons from parking on the Retained Site. For the purpose of (i) in this paragraph above, the term "permanent buildings" shall not include improvements such as parking or toll booths, tram stops, or trailer sized structures. The Tenant will be allowed to use the Property only for baseball use and other sports related uses, for activities that are related or incidental to baseball and other sports related uses, and for all other uses which can be accommodated on or within the improvements allowed to be constructed on the Property from time to time.

3. Term. The option term shall be for a period of twenty-one (21) months, commencing on July 1, 1992 and ending on March 31, 1994. The term of the lease will be for a period of forty (40) years, plus a two (2) year construction period for the Ballpark, subject to the following sentence. Notwithstanding the foregoing, Tenant shall have the right to exercise the option to lease earlier than March 31, 1994 and to elect to have the lease commence prior to April 1, 1994, in which event the lease term shall commence earlier, resulting in an extension of the two (2) year construction period. The Tenant shall have the right to terminate the lease if the agreement with the Giants expires or terminates for any reason or for any other reason, without liability except as set forth in paragraphs 9 and 12 below.

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Assistant Chief
Office of Real Estate and Design Services
Department of General Services
_____, 1992

4. Option Consideration and Rent.

(a) In consideration for the grant of the option to Tenant to lease the Property from Landlord, at the commencement of the option term, Tenant will pay Landlord option consideration in the amount of One Hundred Fifty Thousand Dollars (\$150,000), for the period commencing July 1, 1992 and ending on May 14, 1993. If Tenant has not terminated the option prior to May 15, 1993 or if Tenant exercises the option to Lease prior to May 15, 1993, Tenant will pay to Landlord on or before May 15, 1993, for the period commencing May 15, 1993 and ending March 31, 1994, additional option or lease consideration, as applicable, in the amount of One Hundred Fifty Thousand Dollars (\$150,000).

(b) For the period commencing on April 1, 1994 (notwithstanding any earlier commencement of the lease pursuant to paragraph 3 above) until April 1, 1996 or, if a full season of major league baseball is played in the Ballpark during the 1995 baseball season, on April 1, 1995, Tenant shall pay Landlord total annual rent of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) per year, payable in four (4) equal installments, quarterly in advance.

(c) Commencing on April 1, 1996 or, if a full season of major league baseball is played in the Ballpark during the 1995 baseball season, on April 1, 1995 and continuing throughout the lease term (such period being hereafter referred to as the "Post Construction Period"), total annual rent for the Property shall be:

<u>Post Construction Period Year</u>	<u>Annual Rent</u>
1-7	\$2,500,000
8-14	\$3,000,000
15-21	\$3,600,000
22-29	\$4,200,000
30-32	\$4,800,000
33-40	\$5,400,000

Annual rent shall be paid in four (4) equal installments, quarterly in advance. The Post Construction Period shall not exceed forty (40) years.

(d) As further consideration for the leasing of the Property to Tenant, Tenant shall pay to Landlord fifteen percent (15%) of that portion of the net operating revenue actually received in cash by Tenant in connection with the Ballpark which is attributable to the Property. The portion of net operating

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revenue attributable to the Property shall be a proportionate share of all net operating revenue received from the Ballpark, based on relative land area, after deduction for street dedications. Net operating revenue shall not include any contribution by the Giants towards construction of the Ballpark and shall not include any tax revenue received by the City in connection with the Ballpark. In determining net operating revenue, all costs and expenses actually incurred by Tenant in connection with the operation, maintenance, replacement, reconstruction and management of the Ballpark shall be deducted, including without limitation rent under the lease, rent under any lease for other property upon which the Ballpark will be constructed (or if such property is owned by Tenant, rent shall be imputed based upon the rent per square foot paid by Tenant to Landlord under the lease for the Property), possessory interest taxes, cost of providing police or other security services to the Property and surrounding areas in connection with the operation of the Ballpark, cost of insurance premiums, and all administrative expenses of Tenant relating to the Ballpark.

(e) As further consideration for the leasing of the Property to Tenant, Landlord shall have the right to terminate the lease as to all or any portion of the parking area located south of Tasman Drive (the "South Lot") for the purpose of developing such area, provided such development is compatible with the uses being made of the Property by Tenant, the Giants and Tenant's subtenants, and any displaced parking is replaced by Landlord at Landlord's sole cost with structured or other parking on the remainder of the Property, which is acceptable to the Tenant and the Giants, which approval shall not be unreasonably withheld. Any shared parking arrangement shall be subject to the approval of Tenant and the Giants, which approval shall not be unreasonably withheld, provided that the foregoing shall not be construed as a commitment by the Tenant or the Giants to allow shared use of replacement parking by Landlord. If shared parking is agreed to, then such matters as maintenance obligations, cost and revenue sharing, and the effect of such arrangement on rent shall be subject to the agreement of Landlord, Tenant and the Giants. The replacement parking and all infrastructure costs required in connection with the relocation of parking, including the cost of road widenings, shall be at Landlord's sole cost and expense. Without limiting the criteria upon which replacement parking can be disapproved, termination of the lease as to all or any portion of the South Lot and the provision of replacement parking may not adversely affect parking circulation or the time it takes to ingress and egress the Property, or interfere with the operation of the Property by Tenant, the Giants, or subtenants. All parking revenues attributable to the use of the Property under the lease which is generated from any such replacement parking shall be

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retained by the Tenant, subject to subparagraph 4(d) above. If the lease is terminated pursuant to this subparagraph (e) as to all or any portion of the South Lot, then annual rent shall be reduced on a pro rata basis based on relative gross square footage (i.e., square footage prior to required road dedications). The lease shall also provide that if the lease is terminated as to all or any portion of the South Lot, Landlord will not use or allow the South Lot to be used for any purpose which directly competes with any of the uses being made of the Property by Tenant, the Giants or subtenants as of the date of Landlord's proposed use of the South Lot or for a sports arena.

5. Financing. The Tenant will have the unrestricted right to encumber, hypothecate or mortgage the lease, improvements and/or any portion of the revenues from the Property without the Landlord's consent, subject to the requirement that the Landlord will not be obligated to subordinate its fee interest in the Property or its right to rent under the lease to such encumbrances. The lease must contain such reasonable provisions as will make the lease financeable. In addition, a subtenant's interest in the Property and improvements may also be used as security for financing.

6. Title. Marketable leasehold title to the Property must be delivered to the Tenant at recordation of a memorandum for the lease, free and clear of all liens, encumbrances, covenants, and other matters except for those which have been approved in writing by the Tenant.

7. Subdividing, Easements and Dedications. If the Property does not constitute a legally subdivided parcel and subdivision is required by law, the Property shall be legally subdivided prior to lease commencement at the Tenant's cost. Tenant shall have the right to resubdivide the Property from time to time in the Tenant's sole discretion to accommodate the Tenant's and subtenant's permitted use of the Property and financing, at the Tenant's cost, to the extent subdividing is required by law. The Landlord will cooperate with and assist the Tenant in effecting any such subdivision of the Property. The Landlord will also assist and cooperate with the Tenant with respect to any lot line adjustments, variances, permits or general plan amendments desired by the Tenant from time to time, and will join in granting and dedicating (without charge to Tenant or the applicable users or easement holders) such public and private utility easements, roads and other easement areas as reasonably necessary to effectuate the Tenant's desired development of the Property for the uses permitted under the lease, including, without limitation, the dedication of a portion of the Property to accommodate the construction of Tasman

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Department of General Services
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Drive, the construction of a light-rail system through the Property and the widening of Zanker Road. The Landlord will be responsible for any dedication of such portion of the State Property as may be necessary for the construction of flood control improvements along Coyote Creek, at Landlord's cost. Landlord shall incur no cost in connection with the construction of offsite city public improvements constructed in connection with the Ballpark. Landlord shall cooperate with and assist Tenant in obtaining the right to use the Hetch Hetchy area which bisects the Property, on terms acceptable to Tenant, provided that as long as Tenant leases the entire Property any payments due under such agreement for use of the Hetch Hetchy area during the term of the lease for the Property shall be paid by Tenant. If Landlord terminates the lease as to all or any portion of the South Lot for the purpose of developing such area pursuant to Subparagraph 4(e) above, payments due under the agreement for the use of the Hetch Hetchy area shall be shared by Landlord and Tenant on the basis that the total square footage of the Hetch Hetchy area located within the portion of the South Lot recaptured by Landlord bears to the total square footage of the Hetch Hetchy area which bisects the Property.

8. Construction and Maintenance of Improvements. The Tenant will be allowed access to the Property at all reasonable times prior to the commencement of the lease to obtain data, make surveys and conduct tests on the Property to enable the Tenant to determine whether the Property is suitable for its intended use. Any improvements which Tenant desires to be constructed on the Property following execution of the lease by Landlord and Tenant shall be the sole responsibility of the Tenant. Ongoing maintenance of the improvements constructed on the Property will also be the sole responsibility of the Tenant. Design of all improvements on the Property shall be in the Tenant's sole discretion, subject to the Setback Requirements, provided that Landlord shall have the right of reasonable approval of the landscape buffer referred to in Paragraph 2 above and the construction of any buildings intended for occupancy on the South Lot. Tenant will agree to provide Landlord with copies of any building permit applications made in connection with the Property. It is acknowledged that Landlord is not waiving any rights it may have to participate in the EIR process relating to the Property. Tenant will provide Landlord with a copy of the then current site plan for the Ballpark on a quarterly basis during the option term.

9. Ownership of Improvements. The improvements will be the property of the Tenant throughout the lease term. Tenant will be required to demolish the improvements located on the Property at expiration or sooner termination of the lease ("Lease Termina-

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Department of General Services
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tion"), unless otherwise agreed to by Landlord and Tenant at the time of Lease Termination.

10. Condition of Property. Landlord will warrant that to the best of its knowledge (having performed only the inquiries described in the next sentence) the Property is not subject to any defects or any contamination from hazardous materials. Landlord shall not be obligated to conduct any investigations regarding contamination of the Property by hazardous materials other than to interrogate Landlord's employees and to review Landlord's files and records relating to the Property. Landlord shall deliver to the Tenant any reports or other information in Landlord's possession or subject to Landlord's control pertaining to the physical condition of the State Property.

During the option term, Tenant shall advise Landlord of what investigations, testing and other examinations will be conducted by Tenant for the purpose of ascertaining the presence or absence of hazardous materials or archaeological conditions requiring mitigation. Tenant intends to hire an environmental consultant to perform investigations and testing on the Property for the purpose of ascertaining the presence or absence of hazardous materials requiring mitigation. A copy of the proposed consultant contract between such hazardous materials consultant and the Tenant is attached as Exhibit "D". Tenant makes no representations or warranties regarding such investigations or testing. Tenant agrees to attempt to complete any hazardous materials investigations of the Property not later than April 30, 1992, which date may be extended by Tenant to any time within the option period. If Landlord is not satisfied with the level of investigations that the City intends to have performed, Landlord shall have the right to perform additional investigations at its own cost, provided that any additional hazardous materials investigations are completed not later than April 30, 1992 (as such date may be extended by Tenant pursuant to this paragraph above), any archeological investigations are completed prior to exercise of the option to lease, and any such investigations shall not interfere with the investigations being made by the Tenant nor cause any delay. Promptly following receipt of any reports disclosing the presence of hazardous materials or archaeological conditions requiring mitigation, the party receiving such reports will deliver such reports to the other party.

Landlord will be responsible for the clean up of any hazardous materials condition existing on the Property prior to the commencement of the lease ("pre-existing hazardous materials") to the extent clean up could legally be required by a governmental authority having jurisdiction, except that if any hazardous

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Office of Real Estate and Design Services
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materials are discovered on the Property prior to April 30, 1992 (as such date may be extended by Tenant pursuant to the prior paragraph), Landlord shall have the right to elect, by written notice given within thirty (30) days after the discovery of such hazardous materials, not to clean up such hazardous materials, in which event Tenant shall have until the later of (i) sixty (60) days following receipt of notice of Landlord's election or (ii) expiration of the option term to elect whether Tenant wants to exercise the option to lease. If Tenant elects to exercise the option to lease notwithstanding Landlord's election not to clean up the hazardous materials, then Landlord shall not have the obligation to clean up such hazardous materials. If the option term would expire before the end of the sixty (60) day period referred to in the previous sentence, the option term will be extended to the end of such sixty (60) day period. If Landlord is required to clean up any pre-existing hazardous materials and fails to do so, Tenant shall have the right to do so, and any cost or expense incurred by Tenant in connection with such work may be offset against rent.

Landlord will be responsible for the mitigation cost of any archeological conditions on the Property, except that if any archeological conditions are discovered on the Property during the option term, Landlord shall have the right to elect, by written notice given prior to expiration of the option term, not to incur the mitigation costs of such archeological conditions, in which event, Tenant shall have until the later of (i) sixty (60) days following receipt of notice of Landlord's election or (ii) expiration of the option term to elect whether Tenant wants to exercise the option to lease. If Tenant exercises the option to lease notwithstanding Landlord's election not to incur the mitigation cost of such archeological conditions, then Landlord shall be relieved of its obligations to incur the mitigation cost of such archeological conditions. If the option term would expire before the end of the sixty (60) day period referred to in the previous sentence, the option term will be extended to the end of such sixty (60) day period. If Landlord is required but fails to pay for the cost of archeological mitigation, Tenant shall have the right to do so and to offset the amount spent against rent.

At Lease Termination, Tenant shall return the Property to Landlord free of contamination from hazardous materials which could legally be required by a governmental authority having jurisdiction to be cleaned up ("actionable levels"), to the extent caused by Tenant, Tenant's authorized users or other third parties, except that in no event shall Tenant be liable to Landlord for, or be required to clean up, any contamination of the Property which is caused by Landlord or Landlord's agents, employees, contractors or

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invitees, or offsite migration of hazardous materials onto the Property. If at Lease Termination any existing hazardous materials are not at an actionable level under then existing laws, but due to a change in law, regulation, or interpretation of law becomes actionable following Lease Termination, Tenant shall be responsible for the clean up of such hazardous materials at the time they become actionable, except to the extent caused by Landlord or Landlord's agents, employees, contractors or invitees or due to offsite migration onto the Property.

11. Transfers. The Tenant will have the right to assign the lease from time to time, subject to Landlord's right of reasonable approval. Subject to the foregoing, Tenant will have the right to sublease or otherwise transfer its interest from time to time without restriction. Any sublease, assignment or transfers shall not relieve Tenant of any of its obligations under the lease, unless expressly agreed to in writing by Landlord.

12. Nonrecourse. The lease will be nonrecourse to the Tenant, except for any obligation Tenant may have to (a) demolish the improvements, (b) to return the Property to Landlord at Lease Termination free of (i) monetary liens and encumbrances (except those resulting from Landlord's acts or omissions) and (ii) actionable levels of hazardous materials required to be cleaned up by Tenant as contemplated by Paragraph 10 of this letter above, and (c) to pay the annual rent due under the lease until the date Tenant initially returns the Property to Landlord in the condition described in subparagraphs 12(a) and (b) above (with credit for amounts paid to Landlord by Tenant's subtenants and other authorized users). If hazardous materials on the Property at Lease Termination are not at actionable levels at Lease Termination but become actionable after Lease Termination due to a change in the law, regulation or interpretation of law, then even if Tenant is required under the terms of the Lease to clean up such materials, Tenant's obligation to pay annual rent will not be revived.

13. Nondisturbance. It is contemplated that in conjunction with the negotiation of this letter of intent, the City will enter into a memorandum of understanding with the Giants (the "Giants' M.O.U.") with respect to the Property. The Landlord will enter into a nondisturbance and attornment agreement with the Giants and any other subtenant or transferee of Tenant's interest, recognizing their rights and acknowledging the obligations under the Giants' lease or other appropriate transfer document in the event the lease between Landlord and Tenant is terminated, so long as such transferee is not in default under the terms of the transfer document and such transferee attorns to Landlord, and provided further that the Giants' lease or other appropriate transfer

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document is consistent with the terms of the Giants' M.O.U. or otherwise contains terms reasonably acceptable to the Landlord. Such a nondisturbance agreement will also be provided to any management company under contract with respect to the Ballpark, subject to a right of reasonable approval of the terms of such contract for the benefit of the State.

14. Conditions. This letter of intent and the subsequent negotiation of an option and lease as contemplated by this letter are subject to the following conditions:

(a) Receipt by Landlord of a written agreement between the Giants and the Department of Development Disabilities relative to employment and recreational opportunities of the clients of the Department of Developmental Services;

(b) The approval of the terms contained in this letter of intent by the Giants; and

(c) The approval of the terms of the Giants' M.O.U. by the State.

(d) Agreement by Landlord and Tenant to such other terms and conditions as may be agreed upon by the parties, consistent with the terms set forth in this letter, including without limitation provisions dealing with the following:

(1) Security measures to be instituted by Tenant to prevent Ballpark patrons from parking on the Retained Site;

(2) Relocation of Tasman Drive. It is currently contemplated that Tasman Drive will be extended through the Property along the route generally designated on Exhibit "C" attached to this letter, with adjustments so that there is no encroachment onto the portion of the State Property being leased to the existing co-generation plant. This configuration is acceptable to Landlord. The issue of substantially deviating the route of Tasman Drive from that described in this subparagraph (2) above shall be subject to further discussion and agreement between Landlord and Tenant;

(3) Taxes;

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- (4) Insurance;
- (5) Indemnification;
- (6) Mechanics' Liens;
- (7) Utilities;
- (8) Damage and Destruction;
- (9) Condemnation;
- (10) Default;
- (11) Quiet Enjoyment;
- (12) Estoppel Certificates;
- (13) Force Majeure;
- (14) Surrender;
- (15) Tenant's Right to Contest;
- (16) Conditions to Lease;
- (17) Covenants of Parties;
- (18) Mitigation of damages by Landlord.

As noted above, this letter is intended only to set forth the general terms and conditions on which the parties would negotiate with respect to an option and lease for the Property, and is not intended to create a binding and enforceable legal obligation on the part of either party. Such an obligation will not exist until and unless the parties are able to reach an agreement as to all of the terms of the proposed transaction and definitive and detailed documents satisfactory to the parties have been negotiated, prepared, executed and delivered. The terms of the proposed option and lease will be conditioned upon the review and approval thereof pursuant to appropriate governmental procedure. All undertakings of the Tenant described in this letter are subject to compliance with all applicable CEQA requirements. Neither the execution of this letter nor the execution of the option agreement shall be construed as a preapproval or satisfaction of any applicable CEQA requirements relating to the project. Neither the execution of this letter nor the execution of the option agreement or lease shall be construed as a preapproval or satisfaction of any applicable CEQA, City or other governmental requirements relating to any development or construction by the Landlord on the South Lot or Retained Site. If the general terms outlined above are acceptable,

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we will proceed to discuss in greater detail the proposed terms of the option and lease for the Property and prepare appropriate documentation based on any agreement the parties may reach. Thank you for your consideration of the above proposal.

Very truly yours,

CITY OF SAN JOSE

By _____

Title _____

The undersigned State of California hereby accepts the general terms outlined above.

STATE OF CALIFORNIA, DEPARTMENT OF
GENERAL SERVICES

By _____

Title _____

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

Beginning at a 2" X 3" stake marked M.1 standing at the Southwesterly corner of 127.38 acres conveyed by Henry Bonett, et ux, to Domingo M. Mallo, by Deed recorded on October 30, 1919 in Book 501 of Deeds, page 60, Records of Santa Clara County, State of California, in the Northerly line of a lane and running thence along the Easterly fence line of 25.04 acre tract conveyed by Andrea Malovos Company to Mana Sanders, by Deed recorded on May 18, 1908 in Book 331 of Deeds, page 403, Records of Santa Clara County, State of California, North 17° 33' West 31.77 chains to a 3" X 4" post marked M. standing in the Southerly fence line of Chas. T. Boots' land; thence along the fence line between lands of said Boots and lands now of Domingo M. Mallo, North 89° 15' East 51.878 chains to the center line of the Coyote River as established by the County of Santa Clara Authorities 150 feet wide and from which point a witness post marked W.P. and standing on the high Western bank of said creek, bears South 89° 15' West 81 feet; thence along the center line of the Coyote River as established by said County Authorities with the following courses and distances, to wit: turning to the left with a radius of 530 feet for 74 feet to station; thence North 29° West 372 feet to station; thence curving to the left with a radius of 791.77 feet for 502.50 feet; thence North 73° 25' West 73.50 feet; thence curving to the right with a radius of 205 feet for 284.68 feet; thence North 6 1/2° East 60 feet to station; thence curving to the left with a radius of 513 feet for 442 feet; thence North 42° West 200 feet; thence curving to the left with a radius of 217 feet for 223 feet to station; thence South 76 1/4° West 110 feet to station; thence curving to the right with a radius of 115 feet for 154.27 feet to station from which a 3" X 4" witness post marked W.P.L. 1-12 bears South 89° 15' West 1.25 chains said station being the Northeasterly corner of that certain 134.39 acre tract conveyed by Mary E. Hough Boots, et al, to Charles T. Boots, by Deed dated July 18, 1906 and recorded in the office of the County Recorder of the County of Santa Clara, State of California, in Book 334 of Deeds, at page 90; thence along the Northerly line of said 134.39 acre tract, South 89° 15' West 18.50 chains to a stake; thence North 15° 39' West 7.75 chains to a stake; thence South 89° 15' West 24.96 chains to the Westerly fence line of the Boots Tract; thence along the Westerly line of said tract and the former Malovos Tract, South 15° 39' East 42.88 chains and South 17° 36' East 24.81 chains to a stake marked M.2 standing in the Northerly fence line of a lane 25 feet wide; thence along the Northerly fence line of said land, North 73° 55' East 7.75 chains to the place of beginning, and being a part of The Rancho Rincon de Los Esteros patented to Francisco Berryessa and B. Alviso, Courses True. Variation 18° 15' East. surveyed April 1926 by Chas. Hartmann, Surveyor and C.E., San Jose, California.

EXHIBIT A

Station; thence curving to the left with a radius of 560 feet for 235.98 feet; thence N. 20° 50' E. 297.89 feet to the most Northerly corner of said 10.10 acres more or less; thence along the Northerly line of said 10.10 acres, more or less, Westerly on a curve to the left, with a radius of 7886 feet, through a central angle of 7° 33' 54", for an arc distance of 1041.22 feet; thence S. 74° 49' 08" W. 1585.50 feet; thence S. 68° 32' 30" W. 104.76 feet; thence S. 6° 22' 52" E. 112.45 feet; thence S. 83° 10' 10" W. 155 feet to the point of beginning.

PARCEL TWO:

Beginning at a 4" x 4" stake marked M-G standing on the Westerly bank of the Coyote River, at the Northeastly corner of that certain tract of land deeded by Andrea Malovos Company to J.R. Duarte, by Deed dated March 11, 1909 and recorded in Volume 344 of Deeds, at Page 376; running thence along said Westerly bank of Coyote River, said bank being 75 feet at a right angle from the center line of said river, as described in the Decree of Condemnation had in the Superior Court of the Third Judicial District of the State of California, County of Santa Clara, Case Number 4264, on a curve to the right with a radius of 16.35 chains, 3.81 chains to a 4" x 4" stake marked 211, the chord of said curve has a course of North 13° 05' West; thence on a curve to the right with a radius of 27.63 chains, 8.22 chains; thence North 10° 40' East 4.28 chains; thence on a curve to the right with a radius of 16.08 chains 4.20 1/3 chains; thence North 25° 40' East 2.21 chains to a 4" x 4" stake marked 233; thence on a curve to the left with a radius of 5.75 3/4 chains, 4.98 1/3 chains to the Southerly line of the land of Boots; thence along the Southerly line of land of Boots, South 89° 37' West 50.60 chains to a 3" x 4" stake marked S-M standing at the Northeast corner of that tract of land deeded by Andrea Malovos Company to Mana Sanders, by Deed dated May 13, 1908 and recorded in Volume 331 of Deeds, Page 403 in the Office of the County Recorder of Santa Clara County; thence along the Easterly line of said tract deeded to Sanders, South 17° 34' East 31.77 chains to a 3" x 4" stake marked S-M; thence North 70° 54' East 2.53 chains to a 3" x 3" stake marked B-3; thence South 19° 06' East 0.38 chains to a 2" x 3" stake standing on the Northerly line of the land of Ivancovich; thence along said Northerly line North 70° 54' East 13.02 1/2 chains to a fence post marked B-1; standing at the Northeastly corner of said land of Ivancovich; thence along the Easterly line of lands of Ivancovich, South 42° 31' East 9.34 chains to a stake marked M-1; standing at the Northwestly corner of tract deed to J.R. Duarte (aforementioned) thence along the Northerly line of said tract deeded to J.R. Duarte, North 71° 19' East 18.40 chains to the Point of Beginning.

PARCEL THREE:

Beginning at a 4" x 4" stake marked M-G standing on the Westerly bank of the Coyote River at the Northeastly corner of that tract of land deeded by Andrea Malovos Company to J.R. Duarte, by Deed dated March 11, 1909 and recorded in Volume 344 of Deeds, at Page 376; running thence Northerly along said Westerly bank of the Coyote River, being also the Easterly line of the 127.38 acre tract deeded to Henry Bonetti on a curve to the right with a radius of 16.35 chains, 3.81 chains to a 4" x 4" stake marked 211 (the chord of said curve has a course of North 13° 05' West); thence on a curve to the right, with a radius of 27.63 chains, 8.22 chains; thence North 10° 40' East 4.28 chains; thence on a curve to the right with a radius of 16.08 chains 4.20 1/3 chains; thence North 25° 40' East 2.21 chains to a 4" x 4" stake marked 233; thence on a curve to the left with a radius of 5.75 3/4 chains, 4.98 1/3 chains to the Southerly line of land of Boots; thence along

Excepting from the parcel of land hereinabove described, that portion thereof described in the Final Decree in Condemnation, filed August 23, 1950 in Case No. 75907 entitled, "City and County of San Francisco, a municipal corporation, Plaintiff vs. Manuel S. Rogers, et al, State of California, et al, Defendants", a certified copy of which Decree was recorded on September 7, 1950 in Book 2049 of Official Records, page 78, Santa Clara County Records and being more particularly described as follows:

That certain real property situated in the County of Santa Clara, State of California, being all that portion of that certain parcel of land conveyed by Charles T. Boots to State of California, by Deed dated June 26, 1926 and recorded June 26, 1926 in Book 255 at page 28, Official Records, Santa Clara County, hereinafter referred to as the State Parcel, included within a strip of land 80 feet in width, 40 feet each side of the following described centerline and extensions thereto:

Beginning at a point in the common boundary between the above mentioned State Parcel and that certain parcel of land described in the Deed from Helen Hunt to Howard Russell Burrall, et ux, dated August 25, 1933 and recorded on August 25, 1933 in Book 634 of Official Records, at page 537, distant thereon North 15° 22' West 40.55 feet from the most Easterly corner of said Burrall Parcel; thence North 65° 08' East 3285 feet, more or less, to the Easterly line of said State Parcel in the center of the Coyote River, the Easterly end of said strip being the Easterly line of said State Parcel in the center of the Coyote River and the Westerly end of said strip being the said common boundary between the State and Burrall Parcels.

Also excepting therefrom that certain parcel of land conveyed by the State of California to Santa Clara County Transit District, by Quitclaim Deed dated August 29, 1975 and recorded September 26, 1975 in Book B 632 of Official Records, at Page 458, described as follows:

Portion of the Rancho Rincon De Los Esteros, described as follows:

Beginning on the Westerly line of the 118 acre tract of land described in the Deed of Trust recorded in Book 687 Official Records, Page 50, distant thereon S. 6° 22' 52" E. 189.13 feet from the intersection thereof with the original Southerly line of Alviso-Milpitas Road, said point of beginning also being the most Westerly corner of the 10.10 acres, more or less, described in the Agreement dated June 1, 1971, recorded September 17, 1973, Book 565 Official Records, Page 651, by and between the Department of Public Works and the Department of Mental Hygiene; thence S. 6° 22' 52" E. along the Westerly line of said 118 acre tract of land, 654.31 feet, thence S. 14° 31' 51" E. along said Westerly line, 527.64 feet to a Southwesterly corner of said 118 acre tract of land; thence S. 15° 39' E. 511.50 feet to the Westerly prolongation of the most Southerly line of said 118 acre tract of land; thence N. 89° 15' E. along said prolongation and the Southerly line of said 118 acre tract of land, 2868.36 feet to the center line of the Coyote River Channel as condemned by the County of Santa Clara, 150 feet wide, and from which point a 3" x 4" witness post marked W. P. L. 1-L. 12 and standing in the West line of said condemned channel bears S. 89° 15' W. 83 feet; thence along the center line of said condemned channel, N. 25° 45' W. 270 feet to Station N. 42° 30' W. 245 feet to Station, N. 32° 15' W. 510 feet to Station; thence curving to the right with a radius of 176 feet for 206.65 feet to a Station; thence N. 34° 50' E. 162 feet to Station; thence curving to the left with a radius of 126 feet for 250 feet to Station; thence N. 79° W. 215 feet to Station; thence curving to the right with a radius of 143 feet for 200.20 feet to Station; thence curving to the right with a radius of 320 feet for 247.34 feet to Station; thence N. 44° 30' E. 186 feet to

Continued

the Southerly line of land of Boots, North $89^{\circ} 37'$ East 1.22 chains to a point in the center of the Coyote River; thence up the center line of Coyote River, Southerly on a parallel with the Westerly line of said River and distant 75 feet Easterly therefrom, on a curve to the right with a radius of $6.89 \frac{2}{5}$ chains, 6.49 chains; thence South $25^{\circ} 40'$ West 2.21 chains; thence on a curve to the left with a radius of $14.94 \frac{1}{3}$ chains, 3.91 1.5 chains; thence South $10^{\circ} 40'$ West 4.28 chains; thence on a curve to the left, with a radius of $26.49 \frac{1}{3}$ chains 7.89 chains; thence on a curve to the left with a radius of $15.21 \frac{1}{3}$ chains 3.58 $\frac{1}{2}$ chains; thence leaving said creek and running South $71^{\circ} 19'$ West 1.14 $\frac{1}{3}$ chains to the Point of Beginning.

The above described 3 Parcels also being portions of that certain Record of Survey filed for record in the Office of the Recorder of the County of Santa Clara, State of California on September 7, 1976 in Book 377 of Maps, at Pages 49 and 50.

HIGHWAY 237

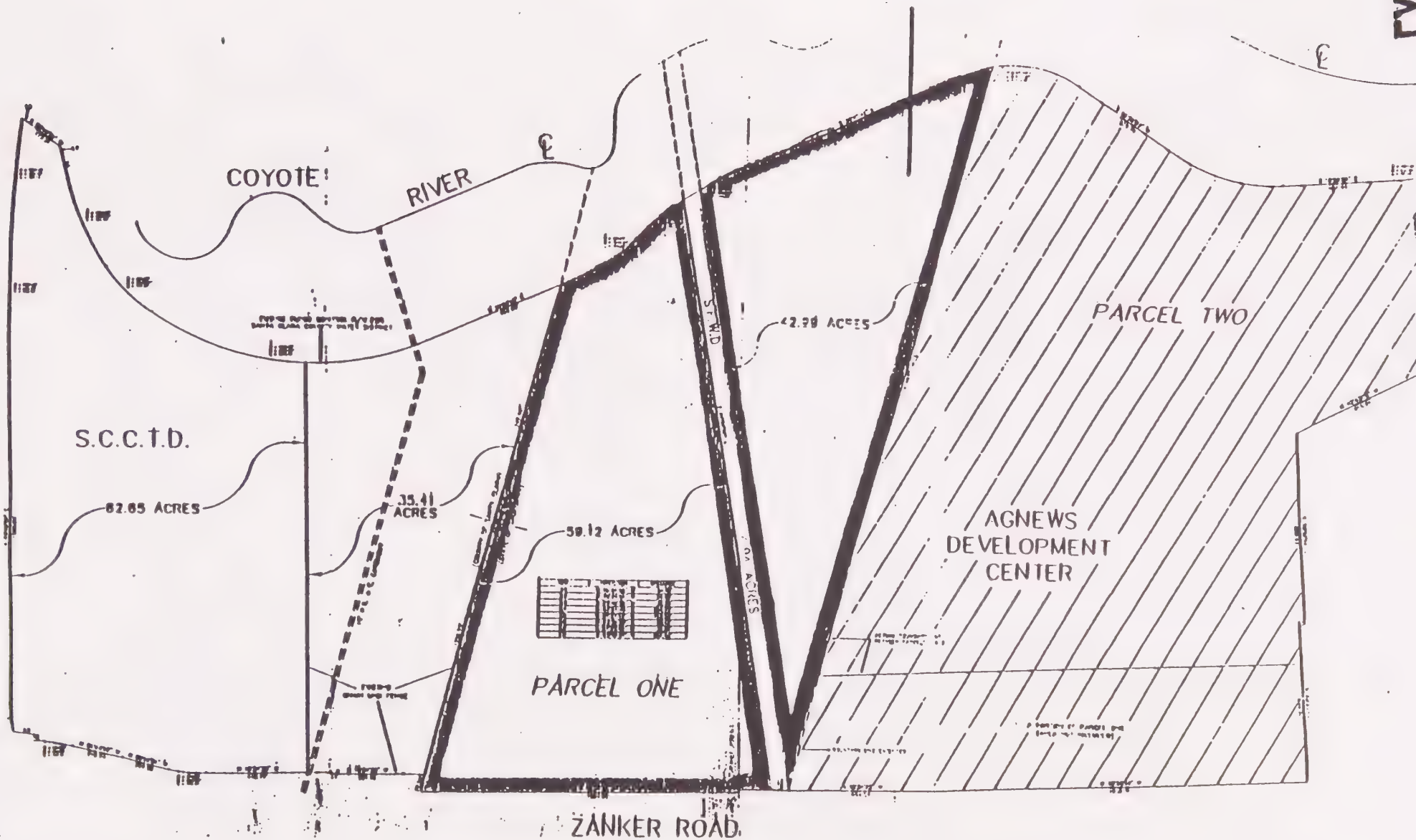


EXHIBIT B

A Major League Ballpark for the City of San Jose

December 3, 1991
IINTB Sports Architecture

DRAFT

FIRST AMENDMENT TO AGREEMENT BETWEEN THE
CITY OF SAN JOSE AND WOODWARD-CLYDE CONSULTANTS
FOR PRELIMINARY GEOTECHNICAL SERVICES AT THE
ZANKER/S.R. 237 PROPOSED BALLPARK SITE

THIS FIRST AMENDMENT TO AGREEMENT, (hereinafter referred to as "First Amendment") is made and entered into this _____ day of _____, 19____, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter referred to as "City") and Woodward-Clyde Consultants (hereinafter referred to as "Consultant").

RECITALS

WHEREAS, the City and Consultant entered into an agreement entitled, "Agreement Between the City of San Jose and Woodward-Clyde Consultants for Preliminary Geotechnical Services at the Zanker/S.R. 237 Proposed Ballpark Site.

WHEREAS, City now intends to have Consultant provide additional geotechnical services for this study, it is necessary to make the following changes to the Agreement.

NOW, THEREFORE, the parties agree as follows:

1. SECTION 4. COMPENSATION, is amended to read as follows:

"SECTION 4. COMPENSATION.

The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, shall not exceed ONE HUNDRED TWENTY THOUSAND AND 00/100 Dollars (\$120,000.00). The rate and schedule of payment is set out in EXHIBIT D-1, entitled "COMPENSATION", which is attached hereto and incorporated herein."

2. EXHIBIT B-1. SCOPE OF SERVICES, attached hereto, amends and replaces EXHIBIT B to the original agreement.
3. EXHIBIT D-1 COMPENSATION, attached hereto, amends and replaces EXHIBIT D to the original agreement.

EXHIBIT D

DRAFT

4. All provisions of the Agreement not amended hereby shall remain in full force and effect.

Executed on the day and year first written above.

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

Deputy City Attorney

by _____
City Clerk

Date: _____

Woodward-Clyde Consultants

by _____
(Title)

55 South Market Street,
Suite 1650
San Jose, CA 95113
Telephone: (408) 297-6962

DRAFT

EXHIBIT B-1

SCOPE OF SERVICES

Woodward-Clyde will perform the following services as related to the Geotechnical Exploration and Environmental Site Assessment as related to the proposed San Jose Ballpark site at Zanker Road and S.R. 237.

The scope of services for this agreement is as follows:

Geotechnical Exploration

-Field Exploration

- o Drill six rotary wash exploratory soil borings to a depth of approximately 120 feet to supplement the information compiled during the geotechnical feasibility study. The borings will generally be located within the footprint of the ballpark; final locations of the borings will be determined in consultation with City of San Jose Staff.
- o Install two geotechnical ground water observation wells to a depth of 35 to 40 feet in separate borings located a distance of approximately 5 feet from the corresponding exploratory soil boring. Wells will be constructed of 2-inch diameter PVC pipe surrounded by filter pack and seal meeting Santa Clara Valley District requirements. The wells will be equipped with locking covers. A third well will be constructed as a dual purpose environmental and geotechnical groundwater monitoring well.
- o Measure the water levels in the completed wells on a daily basis during the course of the field work. After all wells have been installed two sets of additional readings will be taken approximately one week apart.
- o obtain the required soil boring and well installation permits from the Santa Clara Valley Water District. The City of San Jose will acquire all right of entry agreements.

DRAFT

-Laboratory Testing

- o Samples will be taken from the exploratory borings at 5-foot intervals to identify and characterize the materials encountered. Laboratory analysis may include:

- Triaxial shear
- Unconfined compression
- Dry density
- Moisture content tests
- Consolidation tests
- Geotechnical index property tests

-Engineering

- o Final exploratory boring logs will be prepared to incorporate the results of the field exploration program. Subsurface profiles will be constructed to idealize and help estimate the stratigraphy of the ballpark site area and provide a correlation with the findings from the geotechnical feasibility study. Opinions and conclusions from the preliminary geotechnical study will be compared with the data found from the additional borings and wells. Special emphasis will address the issues of:

- Foundation Support
- Excavation stability
- Groundwater control
- Settlement
- Earthquake liquefaction

ENVIRONMENTAL SITE ASSESSMENT

- PHASE I PRELIMINARY SITE ASSESSMENT

- o Review historical information including chain-of-title information, construction reports, Sanborn fire Insurance maps, historical aerial photographs, and geotechnical/environmental project reports at and adjacent to the subject site, as available.

DRAFT

- o Interview State and County property managers and current tenants of sites to be acquired, and adjacent sites, about past and present land and building uses.
- o Review regulatory agency records for the subject site including records maintained by the San Jose Building Department, San Jose Fire Department, Santa Clara County Department of Environmental Health, Santa Clara Valley Water District, California Department of Health Services, California Regional Water Quality Control Board and State or local Agricultural Commissioner, as appropriate. These records shall include correspondence between regulatory agencies and responding parties in the vicinity of the subject site and consultants' reports.
- o Review standard Federal, State, and local city and/or county agency lists of sites reported as having released toxic waste or toxic substances to the environment, to locate sites with reported releases.
- o Conduct a detailed site inspection by qualified Woodward-Clyde employees under the direction of a Registered Environmental Assessor, noting visual evidence of contaminated conditions at the subject site or adjacent sites. Areas examined during this inspection will include the proposed location of the ballpark and surrounding parking lots, the portion of Coyote Creek bordering the subject site, and adjacent portions of the Cerone Bus yard and Agnews Developmental Center.

-PHASE II SOIL SAMPLING

The Phase II field work will be conducted simultaneously with Phase I activities.

- o Subdivide the subject site into a soil sampling point grid with "squares" 600 feet by 600 feet;

soil samples will be obtained at the approximate center of each grid square.

- o Collect a total of 20 soil samples. The top 3 to 6 inches of surface soil will be removed (or until firm soil is encountered), and a manually operated drive sampler will be used to collect the soil samples at depths of from 1-1/2 to 3 feet below ground surface.
- o Conduct chemical analysis of the soil samples using a State-certified analytical laboratory for the pesticides DDT, DDD, DDE and Dieldrin (using EPA Method 8080). These parameters are selected based upon information obtained by Woodward-Clyde Consultants' on a portion of the subject site on behalf of another client. Chemical testing for other parameters may be recommended depending on findings of Phase I investigation.
- o Statistically analyze the shallow soil samples according to the "Simple Random Sampling" procedures as described in Section 9.1 of "Test Methods for evaluating Solid Waste, Volume II: Field Manual; Physical/Chemical Methods, "USEPA Publication No: SW-846 3rd Edition, November 1986.
- o The California Waste Extraction Test will be performed on soil samples whose detected concentrations of one or more of the constituents previously mentioned exceed their Soluble Threshold Limit Concentrations (STLCs) in a given sample, to determine whether the sample constitutes a hazardous waste based on solubility criteria.
- o Chemical and statistical data will be presented in tabular form. The table will include detected concentrations of chemical constituents, applicable Total and Soluble Threshold Limit Concentrations (TTLCs and STLCs), and statistical information concerning mean values, standard derivations and confidence intervals.

- o Petroleum hydrocarbons will be analyzed in an additional eight to ten soil samples which will be collected from the area around the above ground diesel tank reportedly present on the site, and from the bioremediation soil stock piles at the Cerone Bus Yard, if warranted, based on the Phase I findings. If collected, the samples will be tested for Total Petroleum Hydrocarbons as diesel (TPHd) using EPA Method 8015 or LUFT method, and for benzene, toluene, ethylbenzene and xylenes (BTEX) using EPA Method 8020, if necessary
- o Soils analytical data will be reported within the combined Phase I/Phase II investigation report. The subsurface investigation section of the report will include a detailed description of the selected sampling plan, sample point selection and techniques, statistical methods used, a summary of chemical data analysis, and site plan showing sampling point locations, and our conclusions and recommendations regarding soil conditions at the site.

PHASE II MONITORING WELL INSTALLATION

- o In coordination with WCC's Geotechnical Services Division, conduct a preliminary site inspection to select a location where one dual purpose environmental and geotechnical monitoring well may be installed.
- o During drilling of the dual purpose well, collect soil samples at 2-foot and 5-foot depths and at 5-foot intervals thereafter; prepare a geologic description of each sample by a qualified geologist under supervision of a Registered Geologist, according to the Unified Soil Classification System (USCS).
- o Convert the dual purpose boring to a monitoring well, and develop, purge, and collect groundwater samples from the monitoring well.

- o Measure the depths to groundwater in the Woodward-Clyde-installed monitoring wells (at least three) to the nearest 0.01 foot, and use these water depths together with the surveyed locations and elevations of the tops of the wells to estimate the groundwater gradient beneath the site.
- o Submit groundwater and selected soil samples from the dual purpose well to a State-certified analytical laboratory for analysis. Test parameters may include pesticides, volatile & extractable hydrocarbons, volatile organics, or other analyses suggested by WCC's review of past consultants reports from geotechnical / environmental projects and other historical data from the vicinity of the subject site.

REPORTING

GEOTECHNICAL EXPLORATION REPORT

- o The results of the supplemental exploration and analysis will be presented in a preliminary engineering report. Ten copies of this report will be provided to the City of San Jose.
- o During the course of the study, provide information orally as it becomes available. Attend project meetings; approximately three half-day meetings are anticipated.

ENVIRONMENTAL SITE ASSESSMENT REPORT

- o Prepare draft report presenting the findings of the Phase I and Phase II investigations, with recommendations for additional study as appropriate, and submit the draft report to the City of San Jose for review and comments. The draft report will include Woodward-Clyde Consultants professional opinions regarding the anticipated impacts of potential contaminants on the anticipated future use of the site.

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- o Conduct an internal quality control "peer review" of the draft report. The peer review will be performed by a qualified Woodward-Clyde Consultants professional not directly involved in the preparation of the draft report.
- o Meet with representatives of the City of San Jose to discuss their comments on our findings, conclusions, and recommendations.
- o Incorporate comments from the City of San Jose into a final report.
- o Submit the final report for Peer Review by the process described above prior to transmittal of the final report to the City. Transmit five (5) copies of the final report to the City of San Jose.

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EXHIBIT D-1

COMPENSATION

CITY agrees to compensate CONSULTANT at the hourly rate shown on the attached 1992 schedules of charges for professional services performed in accordance with the terms and conditions of this AGREEMENT.

The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including both payment for professional services and reimbursable expenses, shall not exceed ONE HUNDRED TWENTY THOUSAND AND 00/100 DOLLARS (\$120,000.00). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

Reimbursable expenses shall include those shown on the attached 1992 schedules of charges from WOODWARD-CLYDE CONSULTANTS.

CONSULTANT'S estimates for these services are as follows:

-Geotechnical Feasibility Study	\$20,000.00
-Geotechnical Exploration	\$46,430.00
-Environmental Site Assessment	\$53,570.00

Total	\$120,000.00

CONSULTANT shall bill against each item of service; however, the estimates for the services shown above shall not constitute a maximum fee for each item, so long as maximum amount of compensation does not exceed the amount authorized by this AGREEMENT.

WOODWARD-CLYDE CONSULTANTS
NORTHWEST OPERATING GROUP
1992 SCHEDULE OF CHARGES - HAZARDOUS WASTE

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The following describes the basis for compensation for services performed during the calendar year 1992. This Schedule of Fees and Charges will be adjusted annually on January 1 of each subsequent year to reflect merit and economic salary increases and changes in the expected level and mode of operations for the new year. The new Schedule of Fees and Charges shall apply to existing and new assignments.

PERSONNEL

The charge for all time required in the performance of the Scope of Services, including office, field and travel time, shall be at the Hourly Rates set forth below for the labor classifications indicated.

<u>Labor Classification</u>	<u>Hourly Rates</u>
Clerk/Office Assistant*	\$ 35
Assistant Staff/Technical Assistant/Inspector*	55
Technical Typing/Word Processing*	55
Drafter/Illustrator/Editor*	60
Technician*	80
Lab/Field Supervisor	85
Staff	85
Senior Staff	90
Assistant Project	100
Project	115
Senior Project	130
Senior Consultant	140
Principal	150

The time of all personnel (including preparation time) involving expert or witness testimony, or otherwise participation in a judicial proceedings, involving the Client, as requested by Client, or compelled by subpoena or otherwise, will be charged at 1.5 times the hourly rates stated herein.

Charges for contract personnel using WCC facilities will be made according to the hourly rate corresponding to their classification.

A maximum of eight (8) hours travel time per day will be charged for travel within the continental United States.

Overtime (hours worked in excess of eight (8) hours per day) by exempt personnel will be charged at the above straight time hourly rate. Overtime by non-exempt personnel (classifications identified with an asterisk *) will be charged at 1.5 times the above hourly rates.

Special project accounting reports and financial services, including submission of invoice support documentation, which are not normally provided to client, will be charged at the rate of \$45 per hour.

TAXES

Client will compensate Woodward-Clyde for any sales or value-added taxes which apply to the services performed by Woodward-Clyde. Client will reimburse Woodward-Clyde for the amount of such taxes in addition to the compensation due for services.

PAYMENT AND INTEREST CHARGES

Payment and Prompt Pay Discount

Woodward-Clyde will periodically submit invoices to client. Client shall pay each invoice within thirty (30) days from date of invoice. However, if Client objects to all or a portion of any invoice, Client shall notify Woodward-Clyde of the objection within fifteen (15) days from date of invoice, give reason for the objection, and pay that portion of the invoice not in dispute. Payments received by Woodward-Clyde within fifteen (15) days from date of invoice shall be subject to a prompt payment discount of one and one-half percent (1 1/2%).

Interest Charges

Client will pay an additional charge of one and one-half percent (1 1/2%) of the amount of the invoice per month or the maximum percentage allowed by law, whichever is less, for any payment received by Woodward-Clyde more than thirty (30) days from the date of invoice. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. The additional charge will not apply to any disputed portion of any invoice resolved in favor of Client. In the event of a legal action brought by Woodward-Clyde against Client for invoice amounts not paid, attorneys' fees, court costs, and other related expenses will be paid to the prevailing party by the other party.

CONFIDENTIAL INFORMATION

This fee schedule contains confidential business information and is not to be copied or distributed for any purpose other than the use intended in this contract or proposal.

MILEAGE CHARGE FOR USE OF PERSONAL VEHICLES

The mileage charge for personal vehicles used on project assignments will be the then current mileage rate established by the Internal Revenue Service for income tax purposes which is currently \$0.275 per mile.

OTHER PROJECT CHARGES AND OUTSIDE SERVICES

Woodward-Clyde Laboratories

Services rendered by Woodward-Clyde laboratories are charged in accordance with the applicable Schedules of Laboratory Charges, which are available upon request.

Communications

Communications (including telephone, telex, facsimile, general photocopying, courier, postage and express mail) will be charged at a total flat rate of 3% of direct labor revenue.

Computers

Work stations used for Computer Aided Design (CAD), Geographic Information Systems (GIS), and model applications will be charged at \$25 per hour. Personal Computers (PCs) will be charged at \$15 per hour.

Other Direct Expenses

Subcontractors and Outside Consultants and Services will be charged at cost times 1.20. Other expense directly identifiable to the project including (but not limited to) those examples listed below will be charged at cost times 1.15.

Personal Expenses (such as travel, subsistence, and vehicle rental costs incurred by personnel while on project activities); Equipment or Sample Shipping; Special Supplies (drafting and printing, photos, reference materials, expendable materials such as containers and chemicals); Report Reproduction, and Special Fees, Licenses, Permits, Insurances, etc.

WOODWARD-CLYDE EQUIPMENT AND VEHICLE RENTALS**

	Daily Rate	Weekly Rate	Mthly Rate
<u>Health & Safety</u>			
Air Flow Calibrator	\$ 10	\$ 30	\$ 90
Combustible Gas Indicator	5	20	60
Gaslec	25	75	225
Gillam Personal Monitoring Pump	20	60	180
HCM Monitor	30	90	270
HNU (w/10.2 or 11.7-ev Probe)	65	195	585
MSA Full Face Respirator	9	9	18
MSA SCBA	12	48	144
Multi-Gas Detector	5	20	60
Oxygen Meter	5	20	60
Organic Vapor Analyzer	75	300	900
Organic Vapor Meter	50	150	450
Respirable Dust Monitor	20	60	180
Sensidyne Pump	15	45	135

Pumps

Double Diaphragm Pump w/Compressor	50	150	450
Air Compressor only	35	110	330
Grundfos 2" Submersible Pump	60	240	720
Honda Suction Pump, 1"	20	60	180
Keck Pump	30	90	270
McCulloch Suction Pump, 1"	10	40	120
Peristaltic Pump (Series 1)	10	30	90
Peristaltic Pump (Series 2)	15	45	135
Pump Winch Hoist	25	75	225
Pump & Bailer Rig	100	400	1200
Stainless Steel Geofilter			
Bladder Pump, 2"	50	200	600
Control Unit Only	35	110	330
Submersible Pump w/Hoist, 3"	50	200	600
Submersible Pump w/Hoist, 4"	50	200	600
Submersible Pump, 6"	100	N/A	N/A
Vacuum Pump	5	10	25
Well Wizard Pump Kit	50	150	450
Control Unit Only	35	110	330

Vehicles

Woodward-Clyde owned cars and vans are rented at \$7.00/hour up to \$50/day plus \$0.40 per mile. 4-wheel drive vehicles are rented at \$10.00/hour up to \$75/day plus \$0.40/mile.

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	Daily Rate	Weekly Rate	Mthly Rate
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Miscellaneous

Altimeter	\$ 10	\$ 40	\$160
Anemometer	10	30	90
Bailer (PVC)	5	20	60
Bailer (Teflon)	10	40	120
Bailer Reel	10	40	120
Barograph	10	35	100
Boat	50	200	600
Borehole Logger Model 1000C	100	500	1500
Conductivity Meter	15	50	160
Current/Flow Meter	10	40	120
Dissolved Oxygen Meter	25	100	250
Drum Dolly	10	30	90
Echman Grab Sampler	N/A	100	N/A
Filter, Back-Flushing	10	30	90
Generator (650 Watt)	15	60	180
Generator (5500 Watt)	45	180	540
Hand Auger Kit	15	60	180
Jackhammer	25	100	300
Level w/Tripod & Rod	20	60	180
pH Meter	15	50	160
Pressure Transducer			
In-Situ SE 1000B Package---	75	300	900
SE 1000B Data Logger	35	140	400
Transducer w/Jumper	20	80	250
Printer & RS232	5	20	80
Accessories - Ribbon	\$12.00/ea		
Printer Paper	\$2.00/roll-\$10.00/box		
Solo Nutrient Backpack	10	40	120
Split Spoon Sampler	15	N/A	N/A
Steam Cleaner	50	200	600
Steven's Type F Level Recorder	25	75	225
Tank Trailer (500 Gallon)	20	80	240
Teflon Wire w/Reel	5	15	45
Transit w/Tripod & Rod	20	60	180
Tripod & Reel w/Teflon Wire	10	40	120
Turbidity Meter	20	80	240
Vapor Extraction System	150	600	1800
Water Level Indicator (200 ft.)	15	60	180
Water Level Indicator (500 ft.)	20	80	240
Water Quality Kit	50	150	450
Weather Station - Climatronics	N/A	200	600

**Charge rates for specialized geophysical, geology and seismology equipment are available on request.

---SE 1000B package includes 1 SE 1000B Data Logger, 2 Transducers (your choice), 2 Jumpers, 1 RS232 Cable, 1 Printer w/120-V AC & 12-V DC Adapters & Free Accessories (Paper & Ribbon).

Supplies

Expendable supplies, such as respirator cartridges, Draeger tubes, calibration supplies, bottled air, protective clothing, and eye protection kits are charged at cost times 1.15.

1992 CHARGE RATES FOR GEOTECHNICAL LABORATORY TESTS

Woodward-Clyde Consultants
Northern California Laboratory

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Fixed unit prices for laboratory tests are based on two-and-one-half times salary cost for laboratory personnel plus a charge for laboratory overhead which includes equipment, equipment maintenance, and supplies. Prices are based on the average running time required for each test. Special sample or equipment preparation or laboratory consulting will be based on hourly personnel charges. Fixed unit prices do not include preparation time for Shelby tube samples; this time will be billed on a per hour basis. A charge will be made for brass tubes rendered unusable by required handling in preparation and testing.

Sieve analysis - coarse and fine, including wash (3 in. to #200), per test	\$ 85.00
Sieve analysis - fine, including wash (#4 to #200), per test	73.00
Wash analysis (#200 only), per test	55.00
Hydrometer analysis, standard ASTM, per test	90.00
Hydrometer analysis, modified 3 point, per test	80.00
Plasticity Index	100.00
Shrinkage Limit, per test	85.00
Specific gravity of soils, per test	85.00
Moisture determination and/or dry density	17.00
Moisture content, dry density and unconfined compression test (set)	32.00
Additional charge for stress-strain curve	36.00
Direct shear test, per point	250.00
Residual direct shear test (each additional run)	105.00
Consolidation test, 6 load and 2 unload increments per test	360.00
Each additional loading or unloading increment	37.00
Permeability on undisturbed sample, per test	205.00
Permeability on fabricated sample, per test	245.00
Maximum-minimum density, WCC Special Method	190.00
Laboratory compaction, up to 4-in. diameter mold	170.00
Laboratory compaction, 6-in. diameter mold	210.00
Swell test, at one load (each additional load increment, \$22.00)	180.00
Sand Equivalent	75.00
Rock core testing	(C)
Triaxial compression test	(C)
High-pressure triaxial compression test on rock cores	(C)
Bulk density (waxed)	38.00
Pin-hole (including liquid and plastic limits)	230.00
SCS Dispersion	180.00
Crumb test	10.00
Soluble salts (Corrosion Engineering Services)	200.00
R-Value tests	175.00

Charges for special testing not covered by this schedule are based on two-and-one-half times salary cost for personnel performing the test plus a laboratory charge per man hour. An extra charge may be added for the use of certain special equipment.

(C) Charges quoted on request

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THE CHAIRMAN'S REPORT FOR THE YEAR 1999

Presented to the Shareholders

The Chairman has the pleasure to present to you the Chairman's Report for the year 1999. The year has been a year of significant achievement for the Company. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.

Chairman's Report for the year 1999	
1. Introduction	The year 1999 has been a year of significant achievement for the Company. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.
2. Financial Performance	The Company has achieved a number of milestones and has made significant progress in its strategic plan. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.
3. Strategic Plan	The Company has achieved a number of milestones and has made significant progress in its strategic plan. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.
4. Environmental and Social Performance	The Company has achieved a number of milestones and has made significant progress in its strategic plan. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.
5. Conclusion	The Company has achieved a number of milestones and has made significant progress in its strategic plan. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.

The Chairman has the pleasure to present to you the Chairman's Report for the year 1999. The year has been a year of significant achievement for the Company. The Board of Directors has been pleased with the performance of the Company and the management team. The Company has achieved a number of milestones and has made significant progress in its strategic plan.

PLEASANT HILL SOIL LABORATORY

WOODWARD-CLYDE CONSULTANTS

1992 CHARGES FOR TRIAXIAL COMPRESSION TESTS

Sample Diameter	Confining Pressure	Charges per Test, \$		
		Unconsolidated Undrained (UU) ⁴	Consolidated Undrained (CU) ⁵	Consolidated Drained (CD) ⁶
2.0 in.	1 - 150 psi	100	320	360
2.0 in.	151 - 600 psi	130	370	410
2.5 to 2.8 in.	1 - 150 psi	120	320	390
2.5 to 2.8 in.	151 - 600 psi	170	370	450
4.0 in.	1 - 150 psi	195	390	450
4.0 in.	151 - 600 psi	265	465	510
6.0 in.	1 - 150 psi	265	450	520
6.0 in.	151 - 600 psi	315	520	585

NOTES:

1. Rates apply directly for testing undisturbed samples at full diameter as sampled. Any needed trimming of samples from oversized or block samples will be charged at hourly rates.
2. Cutting of Shelby tubes will be charged at hourly rates.
3. Add \$65 for fabrication of remolded samples up to 4 in., \$90 for 6 in. samples.
4. UU test charges do not include pore pressure measurements.
5. CU test charges are for isotropic consolidation and include pore pressure measurements.
6. CD test charges are valid for sandy soils only. Drained tests requiring more than 8 hours of shearing will be billed at hourly rates.

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